

Advertisement of Sale.

NOTICE is hereby given that the undermentioned plots of land, no longer required by Government, situated along the Purnea-Katihar line of the Eastern Bengal State Railway, in the district of Purnea, will be put up to sale at 12 o'clock noon on Monday, the 15th February 1904, corresponding to the 14th Phagun 1311 Fusli, at the office of the Collector of Purnea.

The purchasers of the several plots of land will be subject to the following conditions:—

1st.—The purchasers will have no power to make any excavations on the land nearer than 15 feet from the railway fencing, or plough the land closer than 3 feet from its foundation.

2nd.—If the amount of purchase-money does not exceed Rs. 100, the whole amount must be paid down at once.

3rd.—If the amount of purchase-money exceed Rs. 100, one-fourth of the amount must be immediately deposited. If the balance be not paid by noon of the fifteenth day after the sale, reckoning the day of sale as one, or if that day be a close holiday, then by noon of the first succeeding office day, the sale shall be cancelled, the sum deposited being forfeited to Government, and the lot again put up for sale at the risk of the defaulting purchaser, after issue of advertisement, as in the case of original sale.

4th.—The plots of land will be sold revenue-free to the highest bidders.

5th.—The purchasers shall be put in possession on receipt by the Collector of the orders of the Board confirming the sale.

1	2	3	4	5	6	7	8	9		
Consecutive lot No.	Name of district.	Pargana and mauza.	Number of mile on which land is situate.	Situated on which side of the railway.	APPROXIMATE AREA OF LOT IN BIGHAS AND IN ACRES.		LAND EXCLUDED FROM SALE FROM EACH LOT.		Commencement and termination of lot.	Boundary of lot.
					B. K. C.	A. R. P.	Reasons for exclusion.	A. R. P.		
1	Purnea ...	Katihar, Mirchai ...	89	On both the sides of the Purnea-Katihar line.	13 19 5	4 2 18'74	Transferred from B to A class.	4 2 18'74	Between railway chainage Nos.— 4646'30 and 4676 ; 4678 and 4683'10	
2	Do. ...	Do. Kismat Majheli.	89		14 9 9	4 3 5'86	Do. ...	0 3 15'24	4676 and 4674 ; 4683'10 and 4692'25	
3	Do. ...	Do. do. ...	90		10 8 1	3 1 30'33	.....	.....	4692'25 and 4717'70	
4	Do. ...	Do. Dallun ...	90		18 13 10	6 0 28'13	.....	.....	4717'70 and 4752	
5	Do. ...	Do. do. ...	91		17 3 5	5 2 27'38	.....	.....	4752 and 4793'60	
6	Do. ...	Haveli, Kuddopara ...	91		5 12 15	1 3 18'76	.....	.....	4793'60 and 4804'80	
7	Do. ...	Do. do. ...	92		26 15 2	8 3 15'16	.....	.....	4804'80 and 4857'60	
8	Do. ...	Do. Rampur ...	92		0 1 9	0 0 4'11	.....	.....	4857'60 and 4857'40	
9	Do. ...	Do. Kuddopara ...	93		2 15 7	0 3 26'56	.....	.....	4857'40 and 4864'80	
10	Do. ...	Do. Rampur ...	93		15 15 11	5 0 34'94	.....	.....	4864'80 and 4898'80	
11	Do. ...	Katihar, Champi ...	93		7 1 7	2 1 14'13	.....	.....	4898'80 and 4907 ; 4908'60 and 4910'20	
12	Do. ...	Do. do. ...	94		23 16 5	7 3 19'68	.....	.....	4910'20 and 4946'70	
13	Do. ...	Do. Dallun ...	94		10 7 8	3 1 28'7	.....	.....	4946'70 and 4963'10	
14	Do. ...	Do. do. ...	95		5 9 12	1 3 10'25	.....	.....	4963'10 and 4977	
15	Do. ...	Do. Baisa Romnu ...	95		0 4 0	0 0 10'58	.....	.....	4977 and 4975	
16	Do. ...	Do. Sadpur ...	95		19 11 5	6 1 5'5	.....	.....	4977 and 5015'90	
17	Do. ...	Do. do. ...	96		13 1 12	4 1 12'31	.....	.....	5015'90 and 5041'80	
18	Do. ...	Do. Kowtara ...	96		8 1 12	2 2 27'76	.....	.....	5041'80 and 5060	
19	Do. ...	Do. do. ...	97		15 17 15	8 1 0'84	.....	.....	5060 and 5120'70	
20	Do. ...	Do. Dewanganj ...	97		0 8 0	0 0 21'76	.....	.....	5120'70 and 5121'60	
21	Do. ...	Do. do. ...	98		1 19 0	0 2 23'14	.....	.....	5121'60 and 5128	
22	Do. ...	Do. Singhia ...	98		3 8 0	1 0 19'84	.....	.....	5128'60 and 5165	
23	Do. ...	Haveli, Chatterjan ...	98		19 6 9	6 1 22'52	.....	.....	5165 and 5174'30	
24	Do. ...	Do. do. ...	99		20 5 1	6 3 31'21	.....	.....	5174'30 and 5211	
25	Do. ...	Do. Mutia ...	99		6 13 0	2 1 4'96	.....	.....	5211 and 5227'20	
26	Do. ...	Do. do. ...	100		2 17 8	0 3 32'06	.....	.....	5227'20 and 5234'80	
27	Do. ...	Do. Rajpur ...	100		14 2 11	4 2 27'56	.....	.....	5234'80 and 5260'60	
28	Do. ...	Do. Rajganj ...	100		6 8 0	2 0 18'72	.....	.....	5260'60 and 5268	
29	Do. ...	Do. Chandi ...	100		1 19 8	0 2 24'46	.....	.....	5268 and 5280	
30	Do. ...	Do. do. ...	101		21 12 8	7 0 23'76	.....	.....	5280 and 5332'80	
31	Do. ...	Do. do. ...	102		28 18 8	9 2 9'88	.....	.....	5332'80 and 5385'60	
32	Do. ...	Do. do. ...	103		3 7 0	1 0 17'19	.....	.....	5385'60 and 5396	
33	Do. ...	Do. Belawri ...	103		19 7 13	6 1 25'65	.....	.....	5396 and 5438'40	
34	Do. ...	Do. do. ...	104		11 19 9	3 3 33'53	.....	.....	5438'40 and 5476'90	
35	Do. ...	Do. Abdulnagar ...	104		29 0 0	9 2 18'88	.....	.....	5476'90 and 5491'20	
36	Do. ...	Do. do. ...	105 17		29 2 10	9 2 20'56	.....	.....	5491'20 and 5523'50	

Purnea Collectorate, the 23rd December 1903.

J. H. LEA, Collector.

Advertisement of Sale.

February 1904, corresponding with the 311 Fasli, at Daltonganj.

The purchasers of the several plots of land will be subject to the following conditions:—

1st. - The purchasers will have no power to make any excavations on the land or to fence, or plough the land closer than three feet from its foundation.

2nd.—If the amount of purchase-money does not exceed Rs. 100, the whole amount must be paid down at once.

2nd.—If the amount of purchase-money does not exceed Rs. 100, the whole amount must be paid down at once.
3rd.—If the amount of purchase-money exceeds Rs. 100, one-fourth of the amount must be immediately deposited. If the balance be not paid by noon of the fifteenth day after the sale, reckoning the day of sale as one, or if that day be a close holiday, then by noon of the first succeeding office day, the sale shall be cancelled, the sum deposited being forfeited to Government, and the lot again put up for sale at the risk of the defaulting purchaser, after issue of advertisement, as in the case of original sale.

4th.—The plots of land will be sold revenue-free to the highest bidder.
5th.—The purchasers shall be put in possession on receipt by the Collector of the orders of the Board confirming the sales.

Daltonganj, the 23rd December 1903

JATINDRANATH GUPTA, for Deputy Commissioner, Palamau.

LIABILITIES.

Rupees .. 14,35,75.327 9 11

ASSETS.

10 05,01,962 4 4

Rupees 14,35,75,327 9 11

* Includes Sovs. & 1/2 Sovs., value	Rs.	2,29,575	0	0
Do. do. do.	"	1,94,947	8	0
	Rs.	4,24,522	8	0

By order of the Director,

W. D. CRUICKSHANK,
Secretary and Treasurer.
(1443-1)

BANK OF BENGAL,
Calcutta, 23rd December 1903.

H. F. FRESHWATER, Offg. Chief Accountant.
Rate for Demand Loans, 5 per cent.
Percentage, 38.55.

SALE NOTIFICATION.

In the Court of the Subordinate Judge of Burdwan.

EXECUTION CASE No. 431 of 1903.

Sishir Kumar Ghosh, decree-holder, *versus* Rash Behari Mukerjee, judgment-debtor.

THE following mortgaged properties of the abovenamed judgment-debtor will be sold, subject to the incumbrances specified in the sale proclamation, for the recovery of Rs. 39,283-12-6 by the Nazir of the District Judge of Burdwan in the sale-room of that Court, on the 5th day of January 1904 at 12 o'clock noon

Schedule A.

1. Patni lot No. 106, Durgapur, under Burdwan Raj, situated in the district of Burdwan, pargana Ajamat Sahi, thana and sub-registry Mongolokot, the annual rental of which including cesses, payable to the Burdwan Raj estate amounts to Rs. 4,485-7.

2. Patni lot No. 97, Manteshwar, under Burdwan Raj, in the district of Burdwan, pargana Rameehati, thana and sub-registry Manteshwar, the annual rental of which, including cesses, payable to the Burdwan Raj estate, amounts to Rs. 3,991-10-6.

Schedule B.

All the lands within the boundaries next following, with all the rights and interest therein, of which I am seized and possessed as a full owner, situated in the village of Uttarpara, in the district of Hooghly, thana and sub-registry Serampore :—

Name of the occupant.	North.	East.	West.	South.
1. Hiralal Kumar, 13 cottahs.	Bhuban Banerjee ...	Raja Peary Mohan and Paresh Chandra Mukherjee.	Kisto Kumar ...	Suresh Chandra Mukherjee.
2. Dukhiram Paul, 1 bigha 19 cottahs and 15 chitaks.	Bijoy Kisto Mukherjee.	Suresh Chandra Mukherjee.	Gopal Jelia's pond	Chakar Lane.
3. Rupchand Ghose, 1 bigha and 2 cottahs.	Raja Peary Mohan ...	Nanda Lal Ghose's garden.	Raja Peary Mohan	Suresh Chandra Mukherjee.
4. Iswar Chandra Dass, 17 cottahs.	Dukhiram Paul ...	Dukhiram Paul ...	Nagra Dome's house	Pathway.
5. Nagra Dome, 12 cottahs	Ditto ...	Pond ...	Drain ...	Ditto.
6. Jadunath Paul, 5 cottahs and 4 chitaks.	Pond ...	Do. ...	Hira Lal Kumar's jote land.	Hira Lal Kurar's jote.
7. Mati Bewa, 4 cottahs	Do. ...	Ramdhani Santra's house.	Hira Lal Kumar ...	Hira Lal Kurar.
8. Ramdhani Santra, 2 cottahs.	Do. ...	Priyo Nath Ghose ...	Judgment-debtor's own land.	Preo Nath Ghose.
9. Ramdhani Mukherjee, Nanda Lal Ghose, 1 bigha 2 cottahs.	Raja Peary Mohan's dwelling-house and judgment-debtor's	Municipal ...	Siva Narayan Mukherjee.	Balee khal.
10. Hiralal Kumar, 1 bigha 5 cottahs 12 chitaks.	Surendra Mukherjee and Bone Mill.	Bhuban Mohan Bauda	Judgment-debtor's own land.	Kristodhan Kumar's and judgment-debtor's own.
11. Sreemanta Bhui, 1 cottah.	Judgment-debtor's own	Judgment-debtor's own.	Trunk Road ...	Prostitutes.
12. Ishan Dhoba, 3 cottahs	Sheo Narayan Mukherjee.	Judgment-debtor's own pond.	Ditto ...	Sheo Narayan Mukherjee.
13. Jadunath Ghose, 10 chitaks	Trunk Road ...	Trunk road ...	Jadu Ghose's house	Raja Peary Mohan.
14. Manilal Paul, 4 cottahs and 8 chitaks.	Raja Peary Mohan ...	Nilmoni Paul ...	Pathway ...	Pathway.
15. Narayan Dhubi, 12 cottahs.	Rup Chand Ghose ...	Hiralal Kumar ...	Rup Chand Ghose	Rup Chand Ghose.
16. Kalipada Paul, 5 cottahs and 8 chitaks.	Suresh Chandra Mukherjee.	Nilmani Paul ...	Raja Peary Mohan	Ishan Dhubi's house.
17. Shop, 1 cottah and 4 chitaks (lakhiraj).	Joykristo Street ...	Nilmani's shop ...	Shibnath Modhukhan's shop.	Rajmohan Banerjee
18. Brick-built house and a pond, 2 bighas.	Judgment-debtor's own dwelling-house.	Ramdhani Mukherjee ...	Devendra Mukherjee's house.	Talpokur Lane.
19. Bastee land, 2 cottahs and 8 chitaks.	Raja Peary Mohan ...	The Ganges ...	Trunk Road ...	Ram Chand's house.
20. Pucka house and land, 3 cottahs.	Public Library ...	Public Library ...	Ditto. ...	Raja Peary Mohan and Madan Mukherjee.
21. Pucka house and land, 3 cottahs.	Drain ...	Siva Narayan Mukherjee.	Drain ...	Tarini Mukherjee's house.
22. Land, 3 cottahs ...	Hara Nath Chatterjee	The Ganges ...	Siva Narayan Mukherjee and Ramdhani Mukherjee.	Way to the Ganges.
23. Judgment-debtor's own dwelling-house No. 79 Joykristo's Street, measuring about 16 bighas including pukka houses, garden and pond, etc.	Mukherjee's Street ...	Late Babu Navakristo Mukherjee's pond and Rakha'das Chatterjee's, Jogen-dra Chatterjee's and Sarat Chatterjee's dwelling-houses.	Siva Narayan Mukherjee and Dhoba Bagan.	Late Tara Mohan Banerjee's and Prosad Das Chatterjee's house and mortgagor's own lakhiraj land and pukka house.

Schedule C.

All that undivided moiety or half part or share of him, the said mortgagor of and in all that piece or parcel of mokrari mourashi garden land measuring 100 bighas, be the same a little more or less, situated, lying and being in Makla, thana Kandi Nala, pargana Baro, sub-registry Janai and registration district Hooghly, which is butted and bounded as follows on the north by Kalipur road, on the south by a lane and the garden of Kailash Ghose, on the east by the *bastu* land of Tarak Ghose, the garden land of Rasik Madak, the fallow lands of Jadu Nath Halder and Kedar Paul and the *basti* lands of Doyal Bagdi and Kamini Bagdini and on the west by the fallow lands of Laksman Halder, the *basti* lands of Gonesh Jelia and Gopal Jelia, tank of Jadu Kumar Mukherjee and the *basti* lands of Gopal Jelia and Behari Jelia.

Schedule D.

Entire 16 annas of all that zamindari Lat Hattisala, touzi No. 49, pargana Chowmaha in the Collectorate of Hooghly, the annual revenue payable in respect whereof is Rs. 11,569-3-2 and Chakran Bajeapti mahal No. 2163, included in the said touzi, the annual Government revenue in respect whereof is Rs. 8-10-4, both of them in thana Dhaniakhali, sub-registry Dhaniakhali, registration district Hooghly.

Schedule E.

Entire 13 annas of all that zamindari Lat Sachitara, touzi No. 47 in the Collectorates of Hooghly, Burdwan and Midnapore, pargana Pandua, Dhaia, Arsha, Barbaknabe Jahanabad, Showmaha, Baro, Sahabair, the annual revenue payable in respect whereof is Rs. 26,057-9, in thanas Kalna, Mangalkot, Manteshwar, Dhaniakhali, Pandua, Polba, Chanditala, Goghat, Chandrakona, sub-registry mentioned below and registration districts Hooghly, Burdwan and Midnapore as hereunder, namely:—

District.	Sub-District.	Thana.
Burdwan	{ Kalna ...	Kalna.
	{ Mangalkot ...	Mangalkot.
	{ Manteshwar ...	Manteshwar.
	{ Dhaniakhali ...	Dhaniakhali.
Hooghly	{ Hooghly ...	Polba.
	{ Pandua ...	Pandua.
	{ Janai ...	Chanditala.
	{ Goghat ...	Goghat.
Midnapore	{ Jara ...	Chandrakona.

including village Belekusura in sub-district Jara, thana Chandrakona.

MATILAL SINHA, Subordinate Judge.

(1448—1)

Burdwan, the 23rd December 1903.

NOTICE.

Estate of William Brown Colville, deceased.

PURSUANT to section 42 of Act XXVIII of 1866, the creditors and all persons interested in the estate of William Brown Colville, late of Calcutta, a member of the mercantile firm of Messrs. Bird & Co., who died in London on the 9th August 1903, and probate of whose Will was, on the 15th December 1903, granted by the High Court, Calcutta, with effect throughout British India, to David Corsar Blair, a member of the mercantile firm of Messrs. Finlay, Muir & Co., Calcutta, and George Burgh McNair, a member of the firm of Messrs. Morgan & Co., Solicitors, Calcutta, two of the Executors now in India of the said deceased, are hereby required to submit particulars of their claims with vouchers attached to Charles Windham Foley, the Attorney for the said Executors, addressed to No. 1, Hastings Street, Calcutta, on or before the 15th February 1904, after which date no claims will be admitted and the assets of the estate will be distributed. All persons indebted to the said estate are requested to make payment of their respective debts without delay.

Dated this 16th December 1903.

C. W. FOLEY,

Attorney for D. C. Blair and Geo. B. McNair.
(1403 - 3—1050)

Uncovenanted Service Family Pension Fund.

NOTICE.

THE Sixty-sixth Annual General Meeting of subscribers to the above Fund will be held in the Town Hall on Saturday, the 30th January 1904, at 3 P.M., to receive the Report of the Directors, to lay before the meeting the Books of the Fund, together with an abstract statement of the accounts and a list of subscribers and incumbents in accordance with Fund Rule 58, and to fill by election under Rule 5 the three vacancies caused by the retirement by rotation of three Directors, also to elect Auditors for the ensuing year as required by Rule 8.

By order of Directors,

RIVERS HOWE, Secretary.

52-3 Park Street, Calcutta, the 22nd December 1903.
(1444—3)

Estate Charles Farquhar Findlay, late Chief Engineer, East Indian Railway, Calcutta.

NOTICE is hereby given that all creditors and other persons having any claims against the estate of the deceased above named are hereby required to send in writing the particulars thereof to Messrs. King, Hamilton & Co., 7 Hare Street, Calcutta, on or before the 28th day of February 1904, after which date the undersigned will distribute the assets of the estate of the said deceased among the parties entitled thereto having regard to the claims of which he has then had notice.

And notice is hereby further given that the undersigned will not be liable for the assets or any part thereof so distributed to any person of whose claim he shall not have had notice at the time of such distribution.

W. H. TAYLOR,

Administrator with Will annexed of the Property and Credits of the deceased.

7 Hare Street, Calcutta, the 23rd December 1903.

(1444—3)

Uncovenanted Service Family Pension Fund.

RESULT of votes on the proposal to amend Rule 55 submitted with circular No. 2, dated the 18th September 1903:—

Subject.	For.	Against.
Whether Rule 55 shall be amended, as proposed in the circular.	524	299

By order of the Directors,

RIVERS HOWE,

Secretary, U. S. F. P. Fund.

Calcutta, the 22nd December 1903. (1445—1)

Pure Sulphate of Quinine.MANUFACTURED AT THE BENGAL GOVERNMENT
CINCHONA PLANTATIONFROM 1st April 1903 the price of this quinine will be
as follows:—

1 Pound tin	Rs. 16,	or, post free, Rs. 16.8
$\frac{1}{2}$ " " "	8 " " "	8.6.
$\frac{1}{4}$ " " "	4 " " "	4.6

Analysis shows this quinine to be of the purest manufacture; and it is guaranteed to be free from wilful mixture with the inferior alkaloids, cinchonine and cinchonidine. It is for sale only to Government officers, and only for cash, and may be had from the Superintendent, Botanic Garden, Sibpur, near Calcutta.

Cinchona Febrifuge.

Cinchona Febrifuge can be purchased by all Government officers and by any one taking six pounds and upwards at a time from the Superintendent, Botanic Garden, Calcutta, at the following rates—per four-ounce tin, Rs. 2 annas 8; per eight-ounce tin, Rs. 5; per pound tin, Rs. 10. The general public can be supplied by the Superintendent, Botanic Garden, for cash only, at the undernoted rates per four-ounce tin, Rs. 3; per eight-ounce tin, Rs. 6; per pound tin, Rs. 12. This medicine is also sold by the principal European and Native druggists in Calcutta. Postage, four annas per four-ounce tin; six annas per eight ounce tin; and eight annas per pound tin, in addition to the foregoing rates.

Wanted

AN experienced Head Master, strong in English, for the Barisal Zilla School on Rs. 100 a month, with prospect of increase. He must give a guarantee to remain in the post for at least two years. Applications with a statement of age, family residence, date of graduating and certificates of health, character and previous services will be received up to the 4th January 1904.

Special arrangement may be made with a candidate with special qualifications, experience and reputation. If any candidate asks for more than Rs. 100, it will be assumed that he is not willing to come on Rs. 100.

H. C. STREATFIELD,

Chairman, Joint-Committee's Office, Barisal.

Barisal, the 1st December 1903. (1373-3)

WANTED by the District Board of Birbhum a Sub-Inspector of Schools on a salary of Rs. 50 a month and travelling allowance according to the Civil Service Regulations. The appointment will for the present be on probation for six months with the prospect of being made permanent. Candidates must fulfil all the conditions laid down in the Government Circulars No. 486T.—G., dated 2nd September 1893, and No. 658, dated 8th February 1901, and must file all the necessary certificates with their applications.

Applications will be received up to the 23rd January 1904.

A. AHMAD,

Chairman, District Board, Birbhum

Birbhum, District Board's Office, the 17th December 1903. (1413-3)

WANTED a Bihari graduate for a post of an Assistant Master in the Bhagalpur Zilla School. Applications will be received by the undersigned up to the 10th January 1904.

P. CHATTERJEE,

Inspector of Schools, Bhagalpur Division.

Bhagalpur, the 22nd December 1903.

SYAMA CHARAN ROY, B.L., Pleader, Pabna, intends to be enrolled as a Vakil, High Court, (1341-4-1035)

SARAT CHANDRA SEN, B.L., Pleader, District Judge's Court, 24-Parganas, intends to enrol himself as a Vakil of the Calcutta High Court. (1377-4-1039)

Wanted

A HEAD CLERK and Sarishtadar for the Murshidabad Magistracy on a monthly salary of Rs. 120-2-200. None need apply who is not thoroughly acquainted with the duties of a Magistrate's Office. Applications with copies of testimonials will be received by the undersigned up to 15th January 1904.

H. D. CAREY, Magistrate.

Murshidabad Magistracy, Berhampore, the 18th December 1903.

WANTED a Peshcar or Head Muharrir on Rs. 30 and four attestation Muharrirs on Rs. 15 each per mensem for Fatehsing Settlement in Kandi. The Peshcar must have a thorough experience of attestation and case work in camp. The selected candidates must join at once. Application to reach the undersigned on or before the 15th January 1904.

S. C. GUHA,

Assistant Settlement Officer, Fatehsing, Kandi, Murshidabad.

Kandi, the 16th December 1903.

WANTED a Second Clerk and Assistant Accountant for the Rajshahi District Board's Office on a salary of Rs. 30-2-40 a month. Preference will be given to a graduate or under-graduate, strong in English, having some experience in correspondence and account works of District Board or Executive Engineer's Office or Government Office. Applications will be received up to 10th January 1904.

KISORI MOHAN CHAUDHURI, for Chairman.

Boalia, the 12th December 1903. (1376-2)

Notice.

WANTED a passed Compounder for the Taki Tarsankar Dispensary in the subdivision of Basirhat, district 24-Parganas, on a salary of Rs. 12 rising to Rs. 17, on a yearly increment of Re. 1. Applications with copies of testimonials will be received by the undersigned up to the 30th January 1904. The applicants must state their age and caste in the application.

MONEY LALL BANERJEE,

Vice-Chairman, District Board, 24-Parganas, Alipore.

Alipore, the 22nd December 1903. (1446-3)

Notice.

WANTED a Lady Doctor for the Lady Curzon Zenana Hospital, Birbhum, on a monthly salary of Rs. 50 with free quarters. Applicants must state their age and caste and enclose copies of their testimonials. Applications will be received by the undersigned up to the 15th of January 1904.

A. AHMAD,

President, Lady Curzon Zenana Hospital, Birbhum.

Suri, the 21st December 1903. (1449-3)

Notice.

ROAD CESS in the Palamau district for 1904-1905 will be levied at the maximum rate of half anna per rupee on the annual value of lands, mines, etc., as resolved by the District Board at a special meeting held on 13th November 1903.

SARAT CHANDRA SEN GUPTA,

for Chairman, District Board, Palamau.

Daltonganj, the 22nd December 1903.

Bruce Institution.

ANNUAL ELECTION, 1904.

THE Governors of the Bruce Institution will proceed on Wednesday, the 20th January 1904, to the election of not less than 20 Eurasian girls on the Bruce Foundation, if so many are eligible. Candidates must not, on the day of the election, be under five or over ten years of age. Preference will be given to orphans and to destitute children.

A statement of the case should be drawn up by the Minister countersigning the application form and sent by him to the Secretary of the Bruce Institution along with the application. No application will be considered which is unaccompanied by such a statement.

Forms of application may be obtained from Mr. F. D'Silva, Assistant in charge, Office of the Bruce Institution, room No. 29, top floor, Writers' Buildings, Calcutta; and applications on this form *only* must reach the Office of the Secretary not later than Monday, the 11th January 1904.

ALEX. PEDLER, F.R.S., C.I.E.,

Honorary Secretary to the Governors.

Calcutta, the 3rd December 1903.

(1332-5)

Notice.

THE annual fair at Daltonganj, in the district of Palamau, commences on the 22nd January 1904, corresponding with 20th Magh 1311 Fusli (Basant Panchmi day), and will last for about a month.

2. Traders, dealers and others, excepting persons from plague-infected areas, are invited to attend. No tax is levied. The comfort of strangers is looked to. The *mela* is held on the bank of the Koel. Bamboos and posts are supplied to traders, &c., for making their booths.

Police and conservancy arrangements are made.

SARAT CH. SEN GUPTA,

for Depy Commr and President.

Daltonganj, Palamau district, the 23rd December 1903.

Notification.

UNDER Rule VIII of the Rules framed under the Chota Nagpur Encumbered Estates Act, VI of 1876, it is hereby notified that the undermentioned immoveable property, which was brought under the management of the revenue authorities under the notification published at page 308, Part I of the *Calcutta Gazette*, dated the 19th February 1902, will be restored to the possession and enjoyment of its owners with effect from the 2nd proximo under the second clause of section 12 of Act VI of 1876 as amended by section 6 of Act V of 1884, the estate being insolvent:—

Name of estate.	Name of proprietor.
Samsera ...	Babu Fanindra Nath Singh and others.

F. A. SLACKE, Commissioner of Chota Nagpur.

Ranchi, the 21st December 1903.

Burma Coal Mines Company, Limited, in Liquidation.

NOTICE.

THE Company having been wound up, a meeting of the Shareholders will be held on Friday, the 29th day of January 1904, at 12 o'clock noon, at 12 Mission Row, Calcutta, to receive the Liquidator's account, setting forth the manner in which the winding up has been conducted.

A. PICKFORD, Liquidator.

Calcutta, the 23rd December 1903. (1442-1)

Lost

THE Government Promissory Note No. 016526 of the 3½ per cent. Loan of 1900-1901 for Rs. 1,000, originally standing in the name of the Bank of Bengal and last endorsed to Babu Umrito Lall Deb, *applicant*, the proprietor, by whom it was never endorsed to any other person, having been lost, stolen, or destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the Advertiser—UMRITO LALL DEB.

Residence 52 Cornwallis Street.

(1440-3-1048)

Stolen

THE Government Promissory Notes—

No.	Rs
054385, of the 3½ per cent. loan of 1842-43, for	500
077742, ditto 1855	500
008802, of the 3 per cent. loan of 1896-97	500

The first note originally issued in the name of Hari Das Sreemany, the second in that of Troylucko Nath Roy, and the third in the name of the Agra Bank, Limited: the first and third were last endorsed to Troylucko Nath Roy, the proprietor by whom they and the second were never endorsed to any other person. Payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest and for the issue of duplicates in favour of the proprietor after two years from the date of last advertisement.

Name of the proprietor—AMRIT LALL RAY.

Residence—Gaungadharpur, Sankrail, P. O., district Howrah.

(1349-3-1045)

INSOLVENT NOTICES.

In the matter of ABRAHAM NICHOLAS POGOSE, an insolvent.

On Friday, the 18th day of December instant, it was ordered that the matters of the petition of the said insolvent be heard on Tuesday, the 2nd day of February next, and that the said insolvent do then attend to be examined before the said Court.

Insolvent in person. (1414-2)

In the matter of SEWNATH MULL and NEWALCHAND MULL, insolvents.

On Thursday, the 17th day of December instant, it was ordered that the matters of the petition of the said insolvents be heard on Tuesday, the 2nd day of February next, and that the said insolvents do then attend to be examined before the said Court.

S. D. Dutt and Gupta, Attorneys. (1415-2)

In the matter of SAMUEL CURCY GORDON, an insolvent.

On Wednesday, the 16th day of December instant, it was ordered that the matters of the petition of the said insolvent be heard on Tuesday, the 2nd day of February next, and that the said insolvent do then attend to be examined before the said Court.

Narendranath Mitter, Attorney. (1416-2)

In the matter of SOSI BHUSUN DASS, an insolvent.

On Thursday, the 17th day of December last, it was ordered that the matters of the petition of the said insolvent be heard on Tuesday, the 2nd day of February next, and that the said insolvent do then attend to be examined before the said Court.

Kali Mohan Rakshit, Attorney. (1417-2)

In the matter of HENRY EARNEST PALMER, an insolvent.

On Wednesday, the 16th day of December instant, it was ordered that the matters of the petition of the said insolvent be heard on Tuesday, the 2nd day of February next, and that the said insolvent do then attend to be examined before the said Court.

Insolvent in person. (1418-2)

In the matter of CHAROO CHUNDER PAUL, an insolvent.

On Monday, the 7th day of December instant, it was ordered that the matters of the petition of the said insolvent be heard on Tuesday, the 2nd day of February next, and that the said insolvent do then attend to be examined before the said Court.

Kali Mohun Rakshit, Attorney. (1419-2)

In the matter of GUNGA SHAHAY and SOONDERMULL, insolvents.

On Tuesday, the 1st day of December instant, it was ordered that the matters of the petition of the said insolvent be heard on Tuesday, the 2nd day of February next, and that the said insolvent do then attend to be examined before the said Court.

Khogendra Nath De, Attorney. (1420-2)

Postal Notice.

THE rates of postage applicable to parcels for the undermentioned British colonies and possessions will be reduced with effect from the 1st January 1904, and the rates that will apply to such parcels posted on and after that date are given below:—

Colony and route.	RATES OF POSTAGE (PREPAYMENT COMPULSORY).		
		Via Gibraltar.	Overland (via Brindisi).
Ascension, Bahamas, Barbados, Bermuda, British Guiana, British Honduras, Cyprus, Falkland Islands, Gambia, Gold Coast Colony, Grenada, Jamaica, Lagos, Leeward Islands, Newfoundland, Nigeria, St. Helena, St. Lucia, St. Vincent, Sierra Leone, Tobago, Trinidad, Tristan D'A Cunha, Turks Islands, and the British post office at Beyrout.	For a parcel—		
	Not over 3 lbs. ...	Rs. A. 1 4	Rs. A. 2 0
	Over 3 lbs., but not over 7 lbs	2 8	3 4
Route—Through United Kingdom.	Over 7 lbs., but not over 11 lbs.	3 12	4 8

2. The other conditions applicable to parcels for the places named remain unaltered.

H. M. Kisch,

Offg. Director-General of the Post Office of India.
Calcutta, the 18th December 1903.

CALCUTTA POST OFFICE NOTICE.

Mails for—	Date and hour of closing at the General Post Office, Calcutta.		Route by which despatched.
United Kingdom, Aden, Egypt, Europe, America, West Africa via United Kingdom and East Africa via Aden (and also South Africa, if superscribed on the cover via United Kingdom or Aden).	1903. 31st Dec.	P.M. At 6-30	Per P. & O. steamer from Bombay.
Parcels and money-orders for the United Kingdom and other Foreign places.	30th "	Parcels P.M. At 5 M.O. P.M. At 4	Ditto ditto.
* Australasian Colonies ...	1904. 4th Jan.	" 7-30	Via Tuticorin and Colombo.*
† Straits Settlements (also China and Japan, if the Steamer's name is superscribed on the cover).	1903. 30th Dec.	" 8-30	Per steamer Lightning.
Burma ...	31st " 1904.	" 7-30	Per B. I. S. N. Co.'s steamer.
Burma, Penang and Singapore.	2nd Jan.	" 7-30	Ditto.
Akyab, Kyaukpyu and Sandoway.	2nd "	" 7-30	Ditto.
Burma, Tavoy and Mergui ...	4th "	" 7-30	Ditto.
Mauritius, Réunion, Mayotte, Nossi-Bé and South Africa.	5th "	" 7-30	Per steamer Scaldia from Colombo.
Ditto (supplemental)	6th "	" 7-30	Via Madras.
Port Blair ...	2nd "	" 7-30	

* Although the date entered in column 2 is, as far as can be calculated, the latest safe date of posting for the next Mail steamer, full allowance being made for the steamer being in advance of her published timing, Mails for the places mentioned in column 1 are despatched daily to Colombo, so that they may proceed by any steamer that has been unusually accelerated or retarded, or by any special opportunity that may be afforded by a steamer not belonging to one of the regular lines.

† Correspondence for China and Japan is despatched daily to Colombo, so that they may proceed by the first steamer available.

1. The letter-box for Inland articles will be cleared for the forenoon Mails at the following hours:—

For Goulundo, Arakan and Chittagong, at 5-15 A.M.

For Midnapore and Orissa districts, at 9 A.M.

For the Eastern districts, as far as Dacca and Mymensingh, at 6-15 A.M.

For Khulna and Jessore districts, at 7-15 A.M.

For Bombay, Central Provinces and Midnapore, via Bengal-Nagpur Railway, at 11-15 A.M., and with a late fee of $\frac{1}{2}$ anna up to 11-40 A.M.

2. The letter-box will be cleared for the evening Mails at the following hours, viz.—

For the East Indian Railway Loop Mail, at 2-30 P.M., and with a late fee of $\frac{1}{2}$ anna up to 2-55 P.M.

For the Northern Bengal, Darjeeling and Assam Mails, at 3-25 P.M., and with a late fee of $\frac{1}{2}$ anna up to 3-50 P.M.

For the Bombay Mail, via Jubbulpore, at 6 P.M., and with a late fee of $\frac{1}{2}$ anna up to 6-30 P.M.

For the Punjab Mail, at 7-30 P.M.
For Midnapore, Orissa and Madras Presidency, at 7-30 P.M.
For the Khulna Mail, at 7-30 P.M.
For the Eastern Bengal Mail, at 7-30 P.M.

and with a late fee of $\frac{1}{2}$ anna up to 8 P.M. and with a late fee of 1 anna up to 8-45 P.M.

3. Late registered letters will be received between the following hours:—

For the Bombay Mail, *via* Jubbulpore, from 5 P.M. to 6-15 P.M.

For the Punjab Mail, from 6 P.M. to 7 P.M.

For the Eastern Bengal Mail, from 6 P.M. to 7 P.M.

For the Khulna Mail, from 6 P.M. to 7 P.M.

For Midnapore, Orissa and the Madras Presidency, from 6 P.M. to 7 P.M.

NOTE.—The late fee on each registered letter will be 2 annas, which must be prepaid in stamps on the letter.

4. Articles for Burma and for Port Blair by sea are received without late fee up to 7-30 P.M., and with a late fee of $\frac{1}{2}$ anna up to 8 P.M.

5. On the latest safe day of despatch of Mails for the Australasian Colonies or any other Foreign Countries, *via* Madras or Tuticorin, the letter-box for Foreign articles will be cleared for the last time at 7-30 P.M., and late letters and papers fully prepaid will be received up to 8-45 P.M.

6. On the day of despatch of the Mail for Europe (Thursday), the letter-box for Foreign articles will be cleared for the last time for articles, without the late fee, at 6-30 P.M., and late letters and papers fully prepaid will be received up to 6-45 P.M. Late registered articles will be received from 5 to 6 P.M. On other days the letter-box for Foreign articles will be cleared for the last time, without the late fee, at 6 P.M., and late letters and papers will be received up to 6-30 P.M. for despatch by any Foreign Mails, *via* Bombay, the same night and up to 8-30 P.M., late letters and papers up to 9 P.M., for any Foreign Mails despatched by sea. Foreign Mails for despatch *via* Madras or Tuticorin are received up to 7-30 P.M., and with a late fee up to 8-45 P.M. The late fee for Foreign articles is 4 annas, which must be prepaid in stamps affixed to the articles.

CALCUTTA G. P. O., } C. H. STUART.
The 29th December 1903. } Offg. Presidency Postmaster.

Nadia Rivers.

Report showing the least depths of water for the week ending Friday, the 25th December 1903.

Name of River.	Reach of River.	Least depth of water soundings.	REMARKS.
		Ft. in.	
Bhagirathi.	Entrance from Ganges ...	4 6	Lalkhandear.
	Thence to Geriah ...	4 6	Khisirpore.
	From Geriah to Jangipur ...	3 0	Kantabona.
	.. Jangipur to Berhampore ...	2 3	Mirzapore.
	.. Berhampore to Katwa ...	1 9	Dewanganj.
	.. Katwa to Nadia ...	2 6	
Bhairab-Jalangi.	Entrance from Ganges ...	4 0	Chakarparah.
	Thence to Akriganj ...	4 6	Harbaria.
	Akriganj to junction of the Bhairab and Jalangi ...	3 6	Lalnagar.
	Thence to Patkabari ...	3 6	Moheshganj.
	Patkabari to Nadia ...	3 3	
Matlabhanga.	Entrance from Ganges ...	1 0	Jamalpur.
	Thence to Dewanganj ...	0 6	Kurmiparah.
	From Dewanganj to Shikarpur ...	0 8	Shampore.
	.. Shikarpur to Boalia ...	1 3	Moheshpur.
	.. Boalia to Chuadanga ...	3 0	
	.. Chuadanga to Kissen-ganj and Hanskhali ...	3 6	Krishnapore.

Gauge Readings.

	Locality.	Date.	Hour.	Height above zero.	Height above mean sea level.	REMARKS.
Ganges ...	Sahebganj ...	26-12-1903	A.M. 6	4'16	72'16	Fall-ing.
	Rampur Boalia...	26-12-1903	A.M. 12	3'05	45'05	"
	Entrance of Bhagirathi Geriah...	27-12-1903	A.M. 7	...	53'05	"
	Entrance of Bhairab Jalangi, Akriganj ...	27-12-1903	A.M. 7	...	40'55	"
	Entrance of Matlabhanga	26-12-1903	...	3'58	...	"
Bhairab-Jalangi.	Jangipur ...	27-12-1903	A.M. 8	...	50'10	"
	Berhampore ...	28-12-1903	A.M. 10	5'00	38'75	"
	Katwa ...	25-12-1903	P.M. 6	6'95	22'11	"
Jalangi	Krishnagar ...	25-12-1903	...	4'00	...	"
	Sarupganj ...	26-12-1903	A.M. 12	...	5'60	"
Matlabhanga.	Hanskhali ...	26-12-1903	P.M. 4	4'00	...	"

A. K. BANERJI, Acctt.,

for Exec. Engr., Nadia Rivers Division.

Berhampore, the 28th December 1903.

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H. C. WOODMAN,

Under-Secy. to the Govt. of Bengal.

The 13th October 1903.

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 Kurukh (Orao)-English Dictionary—Part I, by Revd. Ferd. Hahn. Fcap 4 to Limp cloth. Rs. 2 (2s.)
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The Calcutta Gazette.

WEDNESDAY SEPTEMBER 30, 1903.

PART III.

Act of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honour on the 7th August, 1903, and, having been assented to by His Excellency the Viceroy and Governor General on the 21st September, 1903, is hereby published for general information :—

BENGAL ACT NO. V OF 1903.

An Act to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897.

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PART I.—PRELIMINARY.

SECTION.

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PART II.—AMENDMENT OF THE CHOTA NAGPUR LANDLORD AND TENANT PROCEDURE ACT.

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3. Amendment of section 6.
4. Amendment of section 7.
5. Insertion of new sections, 10A and 10B—
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 - 10B. Restrictions on transfer of their rights by raiyats.
6. Amendment of section 11—
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SECTION.

7. Amendment of section 12—
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 - 32A. Ejectment of raiyat for misuse of land.
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19. Amendment of section 36.
20. Insertion of new section, 36A—
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22. Amendment of section 39.
23. Amendment of section 44.
24. Insertion of new section, 44A—
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26. Amendment of section 57.
27. Amendment of section 66.
28. Amendment of section 82.
29. Amendment of section 87.
30. Amendment of section 88.
31. Amendment of section 103.
32. Amendment of section 104.
33. Amendment of section 105—
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35. Repeal of section 124.
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37. Partial repeal of sections 127 and 128.
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 - 130A. Application to set aside sale of tenure, holding or other immoveable property.
39. Amendment of section 133.
40. Amendment of section 134.
41. Amendment of section 135.
42. Amendment of sections 136 and 140.
43. Repeal of section 138.

SECTION.

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46. Insertion of new section, 145A—
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47. Insertion of new sections, 151 to 164—

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151. Application of preceding sections to Mundari khunt-kattidari tenancies.
 152. Restrictions on transfer of Mundari khunt-kattidari tenancies.
 153. Ejectment of persons unlawfully obtaining possession of such tenancies.
 154. Enhancement of rent.
 155. Recovery of arrears of rent under the certificate procedure where there is a record-of-rights.
 156. Reference of question of title to Civil Court.
 157. Recovery of arrear of rent by suit, where there is no record-of-rights.
 158. Joinder of parties in proceedings under section 155 or 157.
 159. Entry of Mundari khunt-kattidari tenancies in record-of-rights.
 160. Decision of disputes regarding entries or omissions in record-of-rights.
 161. Appeal against such decisions.
 162. Entry of decisions in record-of-rights.
 163. In preparing record-of-rights, judgments, etc., in suits not to be taken as evidence that tenancies are or are not Mundari khunt-kattidari tenancies.
 164. Record-of-rights to be conclusive evidence on the question whether a tenancy is a Mundari khunt-kattidari tenancy.
48. Amendment of Schedule C.

PART III.—AMENDMENT OF THE CHOTA NAGPUR COMMUTATION ACT, 1897.

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50. Insertion of new section, 9A—
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51. Insertion of new section, 12A—
12A. Saving of right to claim reduction or enhancement of rent.

BENGAL ACT No. V OF 1903.

An Act to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897.

WHEREAS it is expedient to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897; Ben. Act I of 1879.

And whereas the previous sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, to the provisions of this Act which affect Acts passed by the Governor General of India in Council; Ben. Act IV of 1897. 55 & 56 Vict., c. 14.

It is hereby enacted as follows:—

PART I.—PRELIMINARY.

Short title, commencement and application.

1. (1) This Act may be called the Chota Nagpur Tenancy (Amendment) Act, 1903; and

(2) It shall come into force on such date as the Local Government, with the previous sanction of the Government of India, may, by notification in the Calcutta Gazette, appoint in this behalf.

(3) The provisions of this Act shall apply to all proceedings instituted after the commencement of this Act, and, so far as may be, to all cases pending in any Court or before any officer on the date of such commencement.

PART II.—AMENDMENT OF THE CHOTA NAGPUR LANDLORD AND TENANT PROCEDURE ACT. Ben. Act I of 1879.

Amendment of section 2 of Bengal Act I of 1879.

2. (1) In section 2 of the Chota Nagpur Landlord and Tenant Procedure Act, at the end of the definition of "Deputy Collector" the words "and any Sub-Deputy Collector who is specially empowered by the Local Government to discharge the functions of a Deputy Collector under this Act" shall be inserted.

(2) At the end of the same section the following shall be added, namely:—

"(a) 'bhugut bandha mortgage' means a transfer of the interest of a tenant in his tenancy,

for the purpose of securing the payment of money advanced or to be advanced by way of loan,

upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the tenancy during the period of the mortgage;

"(b) 'Certificate Officer' means a Certificate Officer as defined in clause (2) of section 4 of the Public Demands Recovery Act, 1895;

"(c) 'Deputy Commissioner' means the Deputy Commissioner of a district, and includes any Revenue-officer whom the Local Government may from time to time appoint, by name or in virtue of his office, to discharge any of the functions of a Deputy Commissioner under this Act; Ben. Act I of 1895.

“(d) ‘holding’ means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy;

“(e) ‘landlord’ means a person immediately under whom a tenant holds, and includes the Government;

“(f) ‘moveable property’ includes standing crops;

“(g) ‘Mundari khunt-kattidar’ means a Mundari who has acquired a right to hold jungle land for the purpose of bringing suitable portions thereof under cultivation by himself or by male members of his family, and includes—

(i) the heirs male in the male line of any such Mundari, when they are in possession of such land, and

(ii) as regards any portions of such land which have remained continuously in the possession of any such Mundari and his descendants in the male line, such descendants;

“(h) ‘Mundari khunt-kattidari tenancy’ means the interest of a Mundari khunt-kattidar;

“(j) ‘raiyat’ means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners; and includes also the successors in interest of persons who have acquired such a right, but does not include a Mundari khunt-kattidar:

“*Explanation.*—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it:

A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder or immediately under a Mundari khunt-kattidar:

In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to local custom and to the purpose for which the right of tenancy was originally acquired;

“(k) ‘registered’ means registered under any Act for the time being in force for the registration of documents;

“(l) ‘rent’ includes also money recoverable under any enactment for the time being in force as if it was rent;

“(m) ‘resumable tenure’ means a tenure which is held subject to the condition that it shall lapse to the

estate of the grantor and be resumable by him or his successor in title—

- (i) on failure of male heirs of the body of the original grantee in the male line, or
- (ii) on the happening of any definite contingency other than that referred to in sub-clause (i) ;

“(n) ‘tenant’ means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person ;

“(o) ‘tenure’ means the interest of a tenure-holder, and includes an under-tenure, but does not include a Mundari khunt-kattidari tenancy, and

“(p) ‘tenure-holder’ means primarily a person who has acquired from the zamindar, or from another tenure-holder, a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it; and includes also the successors in interest of persons who have acquired such a right, and the holders of tenures entered in the register prepared under section 5 of the Chota Nagpur Tenures Act, 1869, as confirmed under section 25 of that Act ; but does not include a Mundari khunt-kattidar.”

Ben. Act II
1869.

Amendment
of section 6.

3. (1) The words “so long as he pays the rent payable on account of the same,” in section 6 of the said Chota Nagpur Landlord and Tenant Procedure Act, are repealed.

Ben. Act I
of 1879.

(2) To section 6 of the said Act the following shall be added, namely :—

“Any land which a raiyat has from time to time received in exchange for land previously held by him shall, for the purpose of calculating, under this section, the period of twelve years, be deemed to be the same land as the land which he held before the exchange.

“Every raiyat who cultivates or holds land known as korkar, baiballa, khandwat, sajhwat, jalsasan or ariat shall have a right of occupancy in such land, notwithstanding that he has not cultivated or held the land for a period of twelve years.”

Amendment
of section 7.

4. In section 7 of the said Act, before the words “the last preceding section” the words “the first two paragraphs of” shall be inserted.

Insertion of
new sections,
10A and 10B.

5. After section 10 of the said Act the following shall be inserted, namely :—

“10A. (1) No decree or order shall be passed by any Court for the sale of the right of a raiyat in his holding, nor shall any such right be sold in execution of any decree or order :

Restrictions on sale of
raiyats' rights under
order of Court.

“Provided as follows :—

- (a) any holding may be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the holding ; and

(b) nothing in this section shall affect the right to execute a decree for sale of a holding passed, or the terms or conditions of any contract registered, before the first day of January, 1903.

“*Explanation I.*—Where a holding is held under joint landlords, and a decree has been passed for the share of the rent due to one or more, but not all, of them, proviso (a) does not authorise the sale of the holding in execution of such decree.

“*Explanation II.*—Proviso (b) does not render valid any document which is otherwise illegal or invalid, or authorise a Court to take judicial cognizance of any such document.

“*Explanation III.*—This sub-section does not prevent the sale of a holding for the recovery, under the Public Demands Recovery Act, 1895, of a loan granted for the benefit of the holding under the Land Improvement Loans Act, 1883, or the Agriculturists’ Loans Act, 1884. Ben. Act I of 1895.
XIX of 1883.
XII of 1884

“(2) When a holding is sold for an arrear of rent which has accrued in respect thereof, the rent shall be a first charge on the holding.

“10B. (1) No transfer by a raiyat of his right in his holding or any portion thereof, by mortgage or lease for any period exceeding five years, or by sale, gift or any other contract or agreement, shall be valid to any extent : Restrictions on transfer of their rights by raiyats.

“Provided that a raiyat may enter into a bhugut bandha mortgage of his holding or any portion thereof for any period not exceeding seven years.

“(2) No transfer by a raiyat of his right in his holding or any portion thereof shall be binding on the landlord unless it is made with his consent in writing.

“(3) No transfer in contravention of sub-section (1) shall be registered, or shall be in any way recognized as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

“(4) At any time after the expiration of the period for which a raiyat has, under this section, transferred his right in his holding or any portion thereof, the Deputy Commissioner may, in his discretion, on the application of the raiyat, put the raiyat into possession of such holding or portion.

“(5) Nothing in this section shall affect the validity of any transfer (not otherwise invalid) of a raiyat’s right in his holding or any portion thereof made *bonâ fide* before the first day of January, 1903.”

Amendment of section 11. 6. For section 11 of the said Chota Nagpur Landlord and Tenant Procedure Act the following shall be substituted, Ben. Act I of 1879.
namely:—

“11. (1) A landlord who, except under any special enactment for the time being in force, levies from a tenant any money in excess of the rent legally payable, with interest thereon, or any rakumats or predial services to which he is not legally entitled, shall, on the application of the tenant, be liable, Penalty on landlord levying anything in excess of rent or lawful rakumats or services.

under the order of a Revenue-officer not below the rank of Deputy Commissioner, or under the order of any officer who may be specially empowered by the Local Government in this behalf,

to pay as penalty such sum as such officer thinks fit, not exceeding two hundred rupees, or, when double the amount or value of what is so levied exceeds two hundred rupees, not exceeding double that amount or value.

“(2) Such sum shall be awarded to the tenant as compensation.”

Amendment
of section 12.

7. For section 12 of the said Act the following shall be substituted, namely:—

“12. (1) Every tenant who makes a payment on account of rent, or interest due thereon, or both, to his landlord shall be entitled to obtain forthwith from the landlord or his agent a signed receipt for the same, in a form prescribed by the Local Government from time to time by notification in the Calcutta Gazette.

“(2) The landlord or his agent shall prepare and retain a counterfoil of the receipt in a form prescribed as aforesaid.

“(3) If any landlord or his agent, without reasonable cause, fails to grant such a receipt or to prepare and retain such a counterfoil, then, on proof thereof, the Deputy Commissioner may, in a summary proceeding, by order, impose on the landlord a fine which may extend to fifty rupees in respect of each such failure; and may, in his discretion, award to the tenant, by way of compensation, such portion of the fine as the Deputy Commissioner may think fit.

“(4) If, in any suit or other proceeding under this Act or any other law, the Court or presiding officer (not being the Deputy Commissioner) finds that any landlord or agent has failed—

(a) to deliver to a tenant a receipt in the prescribed form as aforesaid, or

(b) to prepare and retain a counterfoil in the prescribed form of a receipt delivered to a tenant as aforesaid,

such Court or officer shall inform the Deputy Commissioner.”

Amendment
of section 13.

8. (1) In section 13 of the said Act, for the words “or raiyat”, wherever they occur, the words “raiya or Mundari khunt-kattidar” shall be substituted.

(2) In the same section, after the words “entertain a suit” the words “or application” shall be inserted.

(3) To the same section the following shall be added, namely:—

“A deposit may be made under this section in either of the following cases, namely:—

(a) when an under-tenant, raiya or Mundari khunt-kattidar who is bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion,

that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it; or

- (b) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf."

Amendment
of section 14.

9. (1) In section 14 of the said Act, for the words "or raiyat", in both places in which they occur, the words "raiya or Mundari khunt-kattidar" shall be substituted.

(2) To the same section the following shall be added, namely:—

"If no payment is made under this section before the expiration of three years from the date on which the deposit was made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Deputy Commissioner."

Amendment
of section 15.

10. In section 15 of the said Act, after the word "brought" the words "and no application for a certificate under section 155 shall be made" shall be inserted; and after the word "instituted" the words "or application made" shall be inserted.

Amendment
of section 17.

11. In section 17 of the said Act,—

(a) after the word "rent" the words "or interest thereon" shall be inserted, and

(b) for the words "or raiyat", in both places in which they occur, the words "raiya or Mundari khunt-kattidar" shall be substituted.

Insertion of
new sections,
28A. and 28B.

12. After section 28 of the said Act the following shall be inserted, namely:—

"28A. When an order has been made, under any law for the time being in force, directing the preparation of a record-of-rights, then, notwithstanding anything contained in the foregoing sections, the Deputy Commissioner shall not,—

(a) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and

(b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,

entertain any suit or application for the alteration of the rent or the determination of the status of any tenant in the area to which the record-of-rights applies.

"28B. (1) When the rent of a tenure or holding is entered in any such record-of-rights as finally published, then, notwithstanding anything contained in the foregoing sections,

Period for which rents
as entered in record-of-
rights are to remain
unaltered.

such rent shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding, for seven years, and, in the case of a non-occupancy holding, for five years,

and no such rent shall be reduced within the periods aforesaid save on the ground of alteration in the area of the holding or on the ground that the soil of the holding has, without the fault of the raiyat, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual.

"(2) The said periods of seven years and five years shall be counted from the date of the final publication of the said record-of-rights."

Amendment
of section 30.

13. In section 30 of the said Act, for the word "six" the words "six-and-a-quarter" shall be substituted.

Amendment
of section 31.

14. For section 31 of the said Act the following shall be substituted, namely:—

"31. Where an arrear of rent remains due from a non-occupancy raiyat at the end of the Bengali or Sumbat year, where that year prevails, or at the end of the month of Jeyt, where the Fasli or Wiláyati year prevails,

Ejectment of non-occupancy raiyat for arrears of rent.

the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the raiyat."

Insertion of
new section,
32A.

15. After section 32 of the said Act the following shall be inserted, namely:—

"32A. If any raiyat, after the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, uses the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, he shall be liable to be ejected from the land, but only in execution of a decree or order passed under the provisions of this Act."

Ejectment of raiyat for misuse of land.

Amendment
of section 33.

16. In section 33 of the said Chota Nagpur Landlord and Tenant Procedure Act, Ben. Act I
of 1879.

- (a) for the words "or tenure", in the first two places in which they occur, the words "tenure or Mundari khunt-kattidari tenancy" shall be substituted;
- (b) for the words "or tenure", in the third place in which they occur, the words "tenure or tenancy" shall be substituted, and,
- (c) for the words "or raiyat", wherever they occur, the words "raiya or Mundari khunt-kattidar" shall be substituted.

Amendment
of section 34.

17. For section 34 of the said Act the following shall be substituted, namely:—

"34. (1) When any tenure or portion thereof is transferred by succession, inheritance, sale, gift, mortgage or exchange, the transferee or his successor in title shall cause the transfer to

Registration of certain transfers of tenures.

be registered in the sarishta of the zamindar or superior tenant to whom the rent of the tenure or portion is payable.

“(2) Every zamindar or superior tenant shall, in the absence of sufficient reasons to the contrary, admit to registry and otherwise give effect to all such transfers.

“(3) Whenever any such transfer of a tenure or portion of a tenure is registered in the sarishta of the zamindar or superior tenant, he shall be entitled to levy a registration-fee of the following amount, namely:—

(a) when rent is payable in respect of the tenure or portion—a fee of two *per centum* on the annual rent thereof: provided that no such fee shall be less than one rupee or more than one hundred rupees, and

(b) when rent is not payable in respect of the tenure or portion—a fee of two rupees.

“(4) Every application for the registration of a transfer under sub-section (1) must be made, in the case of a transfer which occurred before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, within one year from such commencement, and, in the case of a transfer occurring after such commencement, within one year from the date of the transfer.

“(5) If application for the registration of any transfer of a tenure or portion thereof is not made, and the registration-fee paid or tendered, as hereinbefore prescribed, the transferee or his successor in title shall not be entitled to recover, by suit or other proceeding, any rent payable to him as the holder of the tenure or portion which may have accrued due between the date of the transfer and the date of the application for registration.

“(6) Nothing in this section shall be construed—

(i) to validate a transfer of any tenure or portion thereof which, by the terms upon which it is held, or by any law or any custom having the force of law, is not transferable, or

(ii) if a tenure is resumable, to affect the right of the zamindar or superior tenant to resume it.

“(7) The mere registration of a transfer, or the mere levy of a registration-fee, under this section, shall not be deemed to imply a consent to, or permission to make, the transfer, within the meaning of section 36A; and the zamindar or superior tenant shall not be bound by the terms or conditions of any such transfer.”

Repeal of
section 35.
Amendment
of section 36.

18. Section 35 of the said Act is repealed.

19. (1) In section 36 of the said Act, for the words “the two last preceding sections” the word and figures “section 34” shall be substituted.

(2) In the same section, after the word “transferee” the words “or his successor in title” shall be inserted.

Insertion of
new section,
36A.

20. After the said section 36 the following shall be inserted, namely:—

“36A. (1) Upon the resumption of a resumable tenure, every lien, sub-tenancy, easement or other right or interest created, without the consent or permission of the grantor or his successor in

Annulment of incum-
brances on resumption of
resumable tenure.

interest, by the grantee or any of his successors, on the tenure, or in limitation of his own interest therein, shall be deemed to be annulled, except the following, namely :—

- (a) any lease of land whereupon a dwelling-house, manufactory or other permanent building has been erected, or a permanent garden, plantation, tank, canal, place of worship or burning or burying ground has been made, or wherein a mine has been sunk under lawful authority ;
- (b) any right of occupancy ;
- (c) any right to hold land known as korkar, baiballá, khandwat, sajhwat, jalsásan or ariat ;
- (d) any right to hold land occupied by a sacred grove ; and
- (e) any Mundari khunt-kattidari tenancy.

“(2) Nothing in clause (a) shall be construed to confer on any grantee of a resumable tenure, or any of his successors, any right over minerals which he does not otherwise possess.”

Amendment
of section 37.

21. (1) The words “on account of the illegal exaction of rent or of any unauthorised cess or impost, or on account of the refusal of receipts for rent paid, or,” in clause (2) of section 37 of the said Act, are repealed.

(2) After the words “extortion of rent,” in the same clause, the words “or interest thereon” shall be inserted.

(3) After clause (5) of the same section the following shall be inserted, namely :—

“(5a) all suits to eject a raiyat on account of the use of land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy.”

Amendment
of section 39.

22. (1) At the beginning of section 39 of the said Act the following shall be inserted, namely :—

“Subject to such rules (if any) as may from time to time be made by the Local Government in this behalf.”

(2) In the same section, for the word and figures “or 33” the figures and word “33 or 154” shall be substituted.

Amendment
of section 44.

23. In section 44 of the said Act,—

(a) after the word “Suits” the words and figures “and applications under section 155” shall be inserted ; and

(b) after the word “suit”, in both places in which it occurs, the words “or application” shall be inserted.

Insertion of
new section,
44A.

24. After the said section the following shall be inserted, namely :—

“44A. Where a landlord has instituted a suit, or applied for a certificate under section 155, against a raiyat or a Mundari khunt-kattidar, for the recovery of any rent of his tenancy, the landlord shall not institute another suit or apply for another such certificate against him for the recovery of any rent of that

Successive suits or
applications for recovery
of rent.

tenancy until after six months from the date of the institution or making of the previous suit or application."

Amendment
of section 47.

25. In section 47 of the said Act, after the word "raiyat" the words "or Mundari khunt-kattidar" shall be inserted.

Amendment
of section 57.

26. In section 57 of the said Act,—

(a) for the words "or raiyat" the words "raiyat or Mundari khunt-kattidar" shall be substituted, and

(b) for the words "a dependent taluk or other transferable tenure which, as hereinafter provided," the words "a tenure or holding which" shall be substituted.

Amendment
of section 66.

27. In section 66 of the said Act, for the words "fifteen days", wherever they occur, the words "thirty days" shall be substituted.

Amendment
of section 82.

28. (1) In the first paragraph of section 82 of the said Act, for the word "suit" the words "suit or other proceeding under this Act" shall be substituted.

(2) In the same paragraph, after the words "is subordinate" the words "or by any other person whom the Deputy Commissioner may deem fit" shall be inserted.

(3) In the second paragraph of the same section, after the word "officer" the words "or other person" shall be inserted.

(4) At the end of the same section the words "or other proceeding as aforesaid" shall be added.

Amendment
of section 87.

29. In section 87 of the said Act, for the words "or under-tenant", in both places in which they occur, the words "under-tenant or Mundari khunt-kattidar" shall be substituted.

Amendment
of section 88.

30. (1) In section 88 of the said Act, before the word "raiyat", in both places in which it occurs, the words "non-occupancy" shall be inserted.

(2) In the same section, for the word "fifteen" the word "thirty" shall be substituted.

(3) In the same section, before the word "decree", where it last occurs, the word "final" shall be inserted.

(4) To the same section the following shall be added, namely:—

"The Court may, for special reasons to be recorded in writing, extend the period of thirty days mentioned in this section."

Amendment
of section 103.

31. In section 103 of the said Act, for the word "judgment", where it first occurs, the words "decree or order" shall be substituted.

Amendment
of section 104.

32. In section 104 of the said Act, for the word "judgment" the words "decree or order" shall be substituted.

Amendment
of section 105.

33. For section 105 of the said Act the following shall be substituted, namely:—

“105. No process of execution of any description whatsoever shall be issued on any decree or order passed under this Act unless an application be made within three years from—

Application for execution to be made within three years.

- (a) the date of the decree or order, or
- (b) where there has been an appeal, the date of the final decree or order of the Appellate Court, or
- (c) where there has been a review of judgment, the date of the decision passed on the review.”

Amendment
of section 123.

34. (1) For the first sentence of section 123 of the said Act the following shall be substituted, namely:—

“If the decree is for an arrear of rent in respect of a tenure or holding, the decree-holder may make application for the sale of such tenure or holding; and the tenure or holding may thereupon be brought to sale, in execution of the decree, according to the provisions for the sale of under-tenures contained in the Bengal Rent Recovery (Under-tenures) Act, 1865; and all the provisions of that Act shall, as far as may be, apply: Ben. Act VIII of 1865.

“Provided that the Commissioner may, by order, in any case in which he may consider it desirable so to do,—

- (a) prohibit the sale of any tenure or portion thereof, or
- (b) stay any such sale for any period specified in the order:

“Provided also that any sale of a resumable tenure under this section shall not affect the right of the grantor or his successor in title to resume such tenure, but shall be made subject to such right.”

(2) In the last sentence of the said section for the words “an under-tenure” the words “the tenure or holding” shall be substituted.

Repeal of
section 124.

35. Section 124 of the said Chota Nagpur Landlord and Tenant Procedure Act is repealed. Ben. Act I of 1879.

Amendment
of section 125.

36. (1) In section 125 of the said Act, for the words and figures “any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124,” the words “any tenure or holding” shall be substituted.

(2) In the same section, for the words “such under-tenure” the words “such tenure or holding” shall be substituted.

(3) Before the proviso in the same section the following shall be inserted, namely:—

“Provided that no such inquiry shall be made where the Court considers that the claim was designedly or unnecessarily delayed.”

(4) Before the words “that no transfer,” in the same section, the word “also” shall be inserted.

(5) In the same section, for the words “an under-tenure” the words “a tenure” shall be substituted.

Partial repeal
of sections 127
and 128.

37. The words and figures "if of the nature described in section 123 and not of the nature described in section 124," in section 127 of the said Act,

and the words "of a saleable under-tenure or of a tenure the right and title in which is saleable," in section 128 of the said Act,

are repealed.

Insertion of
new section,
130A.

38. After section 130 of the said Act the following shall be inserted, namely:—

"130A. (1) When a tenure or holding has been sold for an arrear of rent due thereon, or when any other immoveable property has been sold under section 129, any person who owns the tenure or holding or the said immoveable property, or who has an interest therein under a title lawfully acquired before the sale, may, at any time within a period of thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court,—

(a) for payment to the purchaser, a sum equal to five *per centum* of the purchase money, and

(b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation and sale, have been received by the decree-holder.

"(2) If such deposits are made within the said period, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure shall apply in the case of a sale so set aside." XIV of 1882.

Amendment
of section 133.

39. In section 133 of the said Chota Nagpur Landlord and Tenant Procedure Act, after the words "a Deputy Commissioner" the words "by general or special order" shall be inserted. Ben. Act I of 1879.

Amendment
of section 134.

40. In section 134 of the said Act, after the word "duties" the words "and the exercise of their powers" shall be inserted.

Amendment
of section 135.

41. (1) In section 135 of the said Act, before the words "shall be appealable to the Commissioner," the words and figures "and not being orders passed under section 119, section 120 or section 130" shall be inserted.

(2) At the end of the same section the following shall be added, namely:—

"Orders passed after decree and relating to the execution thereof shall be appealable to the Court to which an appeal from the decree itself would lie."

Amendment
of sections 136
and 140.

42. In sections 136 and 140 of the said Act, for the word "fifteen", wherever it occurs, the word "thirty" shall be substituted.

Repeal of
section 138.

43. Section 138 of the said Act is repealed.

Addition to
section 144.

44. To section 144 of the said Act the following shall be added, namely:—

“A second appeal shall lie to the High Court, under Chapter XLII of the Code of Civil Procedure, from any appellate decree passed by the Judicial Commissioner under this Act.” XIV of 1882.

Insertion of
new section,
144A.

45. After section 144 of the said Act the following shall be inserted, namely:—

“144A. Where, in analogous cases, some appeals have been presented to the Deputy Commissioner and others to the Judicial Commissioner, the Judicial Commissioner may, on the application of any of the parties, transfer to his own Court the appeals pending in the Court of the Deputy Commissioner.”

Transfer of appeals
from Deputy Commis-
sioner to Judicial Com-
missioner.

Insertion of
new section,
145A.

46. After section 145 of the said Act the following shall be inserted, namely:—

“145A. (1) The provisions of section 561 of the Code of Civil Procedure shall, so far as applicable, apply to all appeals under this Act.” XIV of 1882.

Application of certain
provisions of the Code of
Civil Procedure.

“(2) The provisions of the Code of Civil Procedure relating to the amendment of plaints, the amendment of decrees, the substitution and addition of parties, and review of judgment shall, so far as they are not inconsistent with this Act, apply to all suits, appeals and proceedings under this Act.”

Insertion of
new sections,
151 to 164.

47. After section 150 of the said Act the following shall be added, namely:—

“Further provisions as to Mundari khunt-kattidars.

“151. Such of the preceding sections as are applicable to Mundari khunt-kattidars shall, in their

Application of preced-
ing sections to Mundari
khunt-kattidari tenancies.

application to such persons and their tenancies, be read subject to the provisions of the following sections.

“152. (1) No Mundari khunt-kattidari tenancy or portion

Restrictions on trans-
fer of Mundari khunt-
kattidari tenancies.

thereof shall be transferable by sale, whether in execution of a decree or order of a Court or otherwise:

Provided that, when a decree or order has been made by any Court for the sale of any such tenancy or portion thereof, in satisfaction of a debt due under a mortgage (other than a usufructuary mortgage) which was registered before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, the sale may be made with the previous sanction of the Deputy Commissioner.

“(2) If the Deputy Commissioner refuses to sanction the sale of any such tenancy or portion thereof under the proviso to subsection (1), he shall attach the land and make such arrangements as he may consider suitable for liquidating the debt.

"(3) No mortgage of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a bhugut bandha mortgage for a period not exceeding seven years.

"(4) No lease of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a lease of one or other of the following kinds, namely:—

(a) mukarrari leases of uncultivated land, when granted to a Mundari or a group of Mundaris for the purpose of enabling the lessees or the male members of their families to bring suitable portions of the land under cultivation;

(b) leases of uncultivated land, when granted to a Mundari cultivator to enable him to cultivate the land as a raiyat.

"*Explanation.*—The expression 'uncultivated land,' as used in this sub-section, includes land which, though formerly cultivated, is not, at the time the lease is granted, either under cultivation or in the occupation of the lessee for purposes of cultivation.

"(5) Where a Mundari khunt-kattidari tenancy is held by a group of Mundari khunt-kattidars, no bhugut bandha mortgage or mukarrari lease of the tenancy or any portion thereof shall be valid unless it is made with the consent of all the Mundari khunt-kattidars.

"(6) No transfer of a Mundari khunt-kattidari tenancy or any portion thereof, by any contract or agreement made otherwise than as provided in the foregoing sub-sections, shall be valid.

"(7) Nothing in the foregoing sub-sections shall affect any sale, or, except as declared in the proviso to sub-section (1), any mortgage, or any lease, made before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903.

"153. If any person, after the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, obtains possession of a Mundari khunt-kattidari tenancy, or any portion thereof, in contravention of the provisions of section 152, the Deputy Commissioner may eject him therefrom ;

Ejectment of persons
unlawfully obtaining
possession of such tenan-
cies.

and if the tenancy was, before such possession was obtained, entered as a Mundari khunt-kattidari tenancy in a record-of-rights finally published under section 103A, sub-section (2), of the Bengal Tenancy Act, 1885, no suit shall be maintainable in any Court in respect of such ejectment; but an appeal shall lie to the Commissioner, if presented within three months from the date of the ejectment, and his decision shall be final. VIII of 1885.

"154. (1) The rent of a Mundari khunt-kattidari tenancy may be enhanced only—

Enhancement of rent.

(a) by an order of the Deputy Commissioner, and

(b) if it be shown before the Deputy Commissioner that the tenancy was created within a period of twenty years immediately preceding the presentation of the petition for enhancement.

“(2) An order of the Deputy Commissioner under sub-section (1) shall not enhance the rent of any such tenancy to an amount which would exceed one-half of the rent which would be payable for the land if it were held by a raiyat having a right of occupancy therein.

“(3) The provisions of sections 22 to 24 shall be applicable to proceedings for the enhancement of the rent of a Mundari khunt-kattidari tenancy.

“155. (1) When an arrear of rent accrues in respect of a Mundari khunt-kattidari tenancy for which a record-of-rights has been prepared under Chapter X of the Bengal Tenancy Act, Ben. Act VIII of 1885. 1885, or any other law for the time being in force,

no suit shall be maintainable in any Court for the recovery of the arrear; but the landlord may apply in writing to the Deputy Commissioner to make a certificate authorising the recovery thereof, with simple interest at six-and-a-quarter *per centum per annum*, or, in the case of money recoverable under the Cess Act, 1880, Ben. Act IX of 1880. with simple interest at twelve-and-a-half *per centum per annum*, Ben. Act I of 1895. under the Public Demands Recovery Act, 1895.

“(2) Upon receiving any such application, the Deputy Commissioner may, after making such inquiry and taking such evidence as he may consider necessary, make a certificate as aforesaid.

“(3) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount; and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost and on his responsibility, and not otherwise.

“(4) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895; and the following portions of that Act shall be applicable, namely, the proviso to section 7, sub-section (1); section 9, sub-sections (2) and (3); section 10, sub-section (1); and sections 11 to 14, 18, 19, 22 and 24 to 33: Ben. Act I of 1895.

Provided as follows:—

- (a) a certificate made under this section may be enforced only by the attachment and sale of the moveable property of the person against whom the certificate is made, or by the attachment and realisation of rent or other debts due to him, or by execution against his person in the manner provided by this Act, or by any two or more of these processes; and
- (b) no objection by any third person to the attachment or sale of crops shall be entertained except—
 - (i) an objection, by a mortgagee holding under a bhugut bandha mortgage, that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(ii) an objection, by a lessee holding under a mukarrari lease as described in section 152, clause (a), that the land in respect of which the arrear accrued is included in his lease, and that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(iii) an objection, by a cultivator, that he is in possession of the land in respect of which the arrear accrued, that the land is recorded in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired such possession, and that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(iv) an objection, by such third person, that the land on which such crops were or are standing is entered in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired possession, and that such land does not form part of the tenancy in respect of which the certificate was made.

“(5) The provisions of sections 99 to 122 shall, so far as the same may be applicable, apply to proceedings under sub-section (4).

“(6) If no appeal is presented under section 32 of the Public Demands Recovery Act, 1895, or if any such appeal is decided against the judgment-debtor, the certificate shall become absolute, and shall have the same force and effect as a final decree of a Civil Court. Ben. Act I of 1895.

“(7) Notwithstanding anything hereinbefore contained, the Deputy Commissioner may, in any case, by written order setting forth the reasons therefor, refuse to make a certificate as aforesaid, or stay for any specified period the execution of any certificate which has been made.

“(8) An appeal shall lie to the Commissioner from any order made under sub-section (7), if presented within one month from the date of the order; and his decision shall be final.

“156. If, in the course of any proceedings under section 155, any question of title is raised which could, in the opinion of the Deputy Commissioner, more properly be determined by a Civil Court, the Deputy Commissioner shall refer such question to the principal Civil Court in the district for determination. Reference of question of title to Civil Court.

“157. (1) When an arrear of rent accrues in respect of a Mundari khunt-kattidari tenancy for which no record-of-rights has been prepared, the landlord may institute a suit for the recovery of the arrear. Recovery of arrear of rent by suit where there is no record-of-rights.

“(2) A decree or order made in any such suit may be enforced only by the attachment and sale of the moveable property of the defendant, or by the attachment and realisation of rent or other

debts due to him, or by execution against his person in the manner provided by this Act, or by any two or more of these processes.

“158. Where a Mundari khunt-kattidari tenancy is held jointly by a group of khunt-kattidars,
Joinder of parties in proceedings under section 155 or 157.

and an objection to the making of a certificate under section 155, or to the execution thereof, or to the maintenance of a suit under section 157, is made on the ground that all the khunt-kattidars have not been made parties to the proceedings,

the objection shall not be entertained if it be shown that other khunt-kattidars could not be made parties without undue delay or expense.

“159. All Mundari khunt-kattidari tenancies shall be so described in the record-of-rights prepared under Chapter X of the Bengal Tenancy Act, 1885.
Entry of Mundari khunt-kattidari tenancies in record-of-rights.

VIII of 1885.

“160. (1) At any time within three months from the date of the certificate of the final publication of the record-of-rights under the Bengal Tenancy Act, 1885, section 103A, sub-section

VIII of 1885.

(2), a suit may be instituted before the Revenue-officer who prepared such record, by presenting a plaint on stamped paper,

for the decision of any dispute regarding any entry of a Mundari khunt-kattidari tenancy or the incidents thereof in the record, or regarding any omission to enter such a tenancy or any incident thereof in the record;

and the Revenue-officer shall hear and decide the dispute.

“(2) In all such suits the Revenue-officer shall, subject to any rules made by the Local Government in this behalf, adopt the procedure laid down in this Act for the trial of suits; and his decision shall, subject to an appeal to the Commissioner under section 161, be final.

“161. An appeal shall lie to the Commissioner from any decision of a Revenue Officer under section 160, if presented within three months from the date of the decision; and the decision of the Commissioner shall be final.
Appeal against such decisions.

“162. Whenever a suit instituted under section 160 has been finally decided, a note of the decision shall be made in the record-of-rights, as finally published, by the Revenue-officer who prepared the record; and such note shall be considered as part of the record.
Entry of decisions in record-of-rights.

“163. When an order has been issued under section 101 of the Bengal Tenancy Act, 1885, in respect of any local area, estate, tenure or part thereof, no judgment, decree or order in any suit instituted thereafter shall be taken as evidence,
In preparing record-of-rights, judgments, &c., in suits not to be taken as evidence that tenancies are or are not Mundari khunt-kattidari tenancies.

VIII of 1885.

in any inquiry made by a Revenue-officer engaged in the preparation of a record-of-rights for such area, estate, tenure or part, under Chapter X of the said Act,

respecting any claim that any tenancy within that area, estate, tenure or part is or is not a Mundari khunt-kattidari tenancy.

"164. When a record-of-rights has been finally published under section 103A, sub-section (2), of the Bengal Tenancy Act, 1885, or amended under section 162 of this Act, the entries therein relating to Mundari khunt-kattidari tenancies shall be conclusive evidence of the nature and incidents of such tenancies;

and, if any tenancy in the area, estate or tenure for which the record-of-rights was prepared has not been recorded therein as a Mundari khunt-kattidari tenancy, no evidence shall be received in any Court to show that such tenancy is a Mundari khunt-kattidari tenancy."

Amendment
of Schedule C.

48. In Schedule C to the said Chota Nagpur Landlord and Tenant Procedure Act, after the word "suit" the words "[or, as the case may be, make an application]" shall be inserted.

Ben. Act I
of 1879.

PART III.—AMENDMENT OF THE CHOTA NAGPUR COMMUTATION Act, 1897.

Ben. Act IV
of 1897.

Amendment
of proviso to
section 4 (3) of
Bengal Act IV
of 1897.

49. For the proviso to sub-section (3) of section 4 of the Chota Nagpur Commutation Act, 1897, the following shall be substituted, namely :—

"Provided that the amount payable in commutation shall be so fixed that the total annual rent of the land, including such amount as aforesaid, shall not exceed the rent which would be fair and reasonable if the land were not held subject to any predial conditions or services."

Insertion of
new section,
9A.

50. After section 9 of the said Act the following shall be inserted, namely :—

"9A. In every local area, estate, tenure or part thereof in which a survey is being made and a record-of-rights is being prepared under an order issued under section 101 of the Bengal Tenancy Act, 1885,

VIII of 1885.

and in which a record of predial conditions or services is being prepared and a commutation thereof is being made under an order issued under section 5 of this Act,

the following provisions shall have effect, instead of those contained in sections 6 to 9 of this Act, namely :—

(1) The Revenue-officer shall, at the time of attesting the preliminary record, ascertain all the predial conditions or services to which, by ancient custom, the general body of tenants are liable, and the cash values of such services;

and shall prepare a statement, in such form as the Board of Revenue may from time to time prescribe, showing the conditions, services and values so ascertained.

(2) In calculating the cash value of such services the Revenue-officer shall be guided by the provisions of section 4, sub-section (3).

(3) The Revenue-officer shall enter in the khatian of each tenant the cash value of the predial conditions

or services (if any) to which such tenant is liable, as ascertained under clause (1).

- (4) If any tenant, by ancient custom, is liable to any predial conditions or services other than those to which the general body of tenants are liable, or is not liable to all the predial conditions or services to which the general body of tenants are liable, the Revenue-officer shall also specify in the khatian the predial conditions or services to which such tenant is liable.
- (5) The statement prepared under clause (1), and the entries in the khatian, shall be published in draft in the same manner and for the same period as the record-of-rights.
- (6) Objections as to entries or omissions, in the statement or khatian, relating to predial conditions or services, may be made under the same conditions as objections to entries in or omissions from the record-of-rights, and shall be disposed of in the same manner as such objections.
- (7) After the disposal of objections, the said statement, and the entries in the khatian relating to predial conditions or services, shall be finally published at the same time and in the same manner as the record-of-rights.
- (8) At any time within three months from the date of the certificate of the final publication of the record-of-rights under the Bengal Tenancy Act, 1885, section 103A, sub-section (2), a suit may be instituted before the Revenue-officer who prepared such record, by presenting a plaint on stamped paper, VIII of 1885.
- for the decision of any dispute regarding any entry in the record relating to predial conditions or services, or regarding any omission to enter any such conditions or services in the record;
- and the Revenue-officer shall hear and decide the dispute.
- (9) In all such suits the Revenue-officer shall, subject to any rules made by the Local Government in this behalf, adopt the procedure laid down in the Chota Nagpur Landlord and Tenant Procedure Act for the trial of suits; and his decision shall, subject to an appeal to the Commissioner under clause (10), be final. Ben. Act I of 1879.
- (10) An appeal shall lie to the Commissioner from any decision of a Revenue-officer under clause (8), if presented within three months from the date of the decision; and the decision of the Commissioner shall be final."

Inseption of
new section,
12A.

51. After section 12 of the said Chota Nagpur Commutation Act, 1897, the following shall be inserted, namely:—

Ben. Act IV
of 1897.

“12A. No proceedings under this Act shall bar the right of any tenant or landlord to claim a reduction or enhancement of rent in accordance with law after such proceedings have been completed.”

Saving of right to
claim reduction or en-
hancement of rent.

CALCUTTA;

The 25th September, 1903.

A. P. MUDDIMAN,

For Secretary to the Bengal Council and
Assistant Secretary to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, JULY 15, 1903.

PART IV.

Bills of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

THE following Report of the Select Committee on the Chota Nagpur Tenancy (Amendment) Bill, 1903, together with the Bill as amended by the Committee, is, by order of the President, published for information:—

WE, the undersigned, Members of the Select Committee to which the Chota Nagpur Tenancy (Amendment) Bill, 1903, was referred, have considered

* Letter from R. R. Pope, Esq., I.C.S., Judicial Commissioner of Chota Nagpur, No. 732, dated the 12th May, 1903. [Paper No. 2.]

Letter from the Honorary Secretary to the British Indian Association, No. 298, dated the 28th May, 1903 [Paper No. 3.]

Letter from the Secretary to the Board of Revenue, No. 67A.T., dated the 20th June, 1903, with enclosures. [Papers No. 4.]

Letter from the Honorary Secretary to the Indian Association, dated the 4th July, 1903. [Paper No. 5.]

the Bill and the papers noted in the margin,* and have now the honour to submit this, our Report, with the Bill, as amended by us, annexed hereto.

2. The principal amendments are explained in the following paragraphs.

3. *Clause 1 (3).*—This clause is new. It is based on section 2 (3) of the Code of Criminal Procedure, 1898 (Act V of 1898), and is required in order to make it clear that pending cases are to be governed by the new law. If this provision were not made, evils which the Bill is designed to remedy would, to some extent, continue.

4. *Clause 2 (2) (Bengal Act I of 1879, section 2).*—We have inserted a definition of “bhagat bandhu mortgage,” which is required for the purposes of section 10B, as now amended, and of the new section 152.

5. We have also inserted a clause to declare that “moveable property” includes standing crops. This is for the purpose of removing an existing uncertainty, and also to increase the facilities for realizing arrears of rent.

6. We have inserted a definition of “mundari khunt-kattidar” in clause 2 (2) of the Bill, and have made additions to the definitions of “tenure,” “tenure-holder” and “raiya” to show that mundari khunt-kattidars are neither “tenure-holders” nor “raiya.” We have also proposed various amendments

in clauses 7 to 10, 15, 21 (2), 22 to 25 (a), 28 and 42 of the Bill, with the object of adapting the Act to mundari khunt-kattidars, and have inserted some special provisions for this class of tenants in clause 41, which are explained in paragraph 36, *post*.

7. We have struck out the definition of "permanent tenure." The expression was used only in the section 36A which it was proposed by clause 13 of the Bill as introduced to insert in Bengal Act I of 1879; and, in the amalgamation of that section with the new section 34 contained in clause 16 of the Bill as now amended, it has not been found necessary to make use of the expression in question.

8. We have inserted a definition of "registered." It will be required for the purposes of the new sections 10A (b) and 152 (1), proviso.

9. We have struck out the definition of "rent" which was contained in clause 2 (c) of the Bill as introduced. The general consensus of local opinion is that no definition is needed, and we have not been able to devise any satisfactory definition. Hitherto the local Courts have not in any way been inconvenienced by the absence of a definition of rent. Since rent in these districts consists of cash, predial services and rakumats or payments in kind, it was considered impossible under any circumstances to accept the definition proposed in the Bill as originally presented. To have done so would have been in effect to mulct the landlords of a large portion of their rent, for which no reason was apparent.

10. We have inserted in the place of the original definition a mere declaration that the term "rent" includes money recoverable under any enactment for the time being in force as if it was rent. This declaration is taken from section 3 (5) of the Bengal Tenancy Act, 1885 (VIII of 1885), and is required in order to make clear the application of sections 12 to 17 (receipts for rent and deposit of rent) and 123 (sale of tenures and holdings for arrears of rent) of Bengal Act I of 1879 to road cess and public works cess, and in order to extend the new section 34 (referred to in paragraph 25, *post*) to those resumable tenures for which no "rent," in the ordinary meaning of the word, is paid.

11. In the definition of "resumable tenure" we have inserted words to show, in accordance with the intention with which such tenures are granted, that the resumption may be made by the successor in title of the original grantee.

We have also struck out the words "free of all incumbrances," because it is not clear that any avoidance of incumbrances has usually been stipulated for on the grant of tenures of this class. The stipulation in question is rather one imposed by the Legislature, and we have accordingly transferred the Explanation to the clause so as to form a separate section (numbered 36A). We have made some alterations in the new section 36A, which are explained in paragraph 27, *post*.

Further, we have added to sub-clause (i) words to show that the failure of heirs, on which resumption may take place, is a failure of heirs in the male line, this being the recognized custom; and we have substituted the words "definite contingency" for "certain expressed contingency," since the term "expressed" might be taken to mean in writing, and the conditions are not always in writing.

12. We have included in the definition of "tenure-holder" the holders of tenures registered under the Chota Nagpur Tenures Act, 1869, since they are regarded as tenures under that Act.

13. *Clause 3 (section 6).*—We have added a clause to declare that every raiyat cultivating or holding land known as korkar, baiballa, khandwat, sajhwat, jalsasan or ariat (synonymous terms) shall have a right of occupancy in the land, so long as he pays the rent, irrespective of the period of his cultivation or holding. This clause merely confirms local custom, as recorded so long ago as the year 1875 by Mr. G. K. Webster, Manager of the Chota Nagpur Estate, and in 1876, by the then Commissioner of Chota Nagpur, for Hazaribagh.

14. By clause 4 of the Bill as introduced it was proposed to add a proviso to section 9 of Bengal Act I of 1879 to declare that, if any patta granted to a

non-occupancy raiyat specifies a rate of rent in excess of that payable by such raiyats in accordance with local custom, the excess should not be payable. We have struck out the clause. Local officers are opposed to it, and we are not in possession of facts sufficient to lead us to provide for non-occupancy raiyats a protection which does not exist in other parts of Bengal.

15. *Clause 4 (section 10A).*—We have added a proviso to authorise the sale of a raiyat's holding for arrears of rent accruing in respect of the holding, and an Explanation to make it clear that a holding may not be sold for the recovery of arrears due to one or more only of several joint landlords. Landlords who have at heart the interest of their raiyats have represented that ejection is too harsh a remedy and would result in depriving the raiyats of the value of the labour expended by them on their holdings.

We have also added an Explanation to make it clear that raiyats' holdings may be sold under the Public Demands Recovery Act, 1895 (Bengal Act I of 1895), for the recovery of loans granted under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884.

We have adopted the provision in section 65 of the Bengal Tenancy Act, 1885, that when a holding is sold for arrears of rent the rent shall be a first charge thereon.

16. *Clause 4 (section 10B).*—In order to recognise the common practice of raiyats putting in trust or leasing their holdings on proceeding to Assam under the Assam Labour and Emigration Act, 1901 (VI of 1901), we have extended the term of permissible mortgages and leases from two to five years. The term of the labour contract under the Act mentioned is four years, and an additional year should be allowed for the journey to Assam and back and for incidental delays.

We have, further, provided that the maximum period for which a bhagat-bandha mortgage may be made shall be seven years, this being by local custom what is regarded as necessary to meet the financial needs of the cultivators.

We have also provided, on the analogy of section 88 of the Bengal Tenancy Act, 1885, that no transfer of a raiyat's rights shall be binding on the landlord unless it is made with his consent in writing.

Finally, we have added a sub-section to authorise the Deputy Commissioner to put a raiyat into possession of his holding on the expiration of the period for which he has transferred his rights in it.

17. *Clause 4 (sections 10A and 10B).*—We desire to record our opinion that it will, in all probability, be necessary at some future time to devise a procedure for the purpose of preventing the evasion of sections 10A and 10B. It is understood that similar prohibitions are safeguarded by official action in the Sonthal Parganas.

18. *Clause 5 (section 11).*—In order to obviate doubts which might arise in consequence of the abandonment of the definition of "rent," we have expressly declared the new section 11 to apply to the levy of any money in excess of the rent legally payable (with interest) or any rakumats or predial services to which the landlord is not legally entitled.

As it would be impossible for the Deputy Commissioner to deal with all applications made under the section, we have added words to enable the Local Government to empower other officers to adjudicate upon them.

We have adopted the suggestion of the British Indian Association that the maximum penalty should be Rs. 200, as in section 75 of the Bengal Tenancy Act, instead of Rs. 500.

19. *Clause 6 (section 12).*—We have altered sub-section (3) so as to make it follow more closely the earlier part of section 58 (2) of the Bengal Tenancy Act; and we have added a clause to authorise the Deputy Commissioner to award a portion of the fine to the tenant.

20. *Clause 7 (section 13).*—This clause is new. It adds clauses to section 13 of Bengal Act I of 1879, to declare definitely the cases in which rent may be deposited in the Court of the Deputy Commissioner. The absence of such a declaration has, in the past, caused much hardship to the tenantry and led to much perjury in applications, prepared by petition-writers, for the acceptance of deposits of rent.

21. *Clause 11 (section 28B).*—We have reduced from fifteen to seven years the period for which the rent of a tenure, an occupancy-holding or the holding of an under-raiyat having occupancy-rights is not to be enhanced, after entry of such rent in the record-of-rights. The main object of section 28B being to secure, with a minimum of friction, materials for future legislation, we think that seven years will be a sufficient period during which to bar the enhancement of such rents, as the contemplated legislation is likely to be accomplished within that period.

22. *Clause 12 (section 30).*—We have, in order to secure simplicity of calculation, substituted $6\frac{1}{4}$ for 6 *per cent.* as the rate of interest payable on arrears of rent. The new percentage works out at one anna in the rupee.

23. *Clause 13 (section 31).*—This clause is new. Since it is proposed [*see* paragraph 15, *ante*] to amend section 10A so as to allow the sale of holdings for arrears of rent, it is unnecessary to allow the ejectment for arrears of any but non-occupancy raiyats; and clause 13 of the amended Bill revises section 31 of Bengal Act I of 1879 accordingly, section 66 (1) of the Bengal Tenancy Act being taken as a model. When arrears accrue in respect of a non-occupancy holding, we think the landlord should have a right either to sell the holding or to eject the raiyat.

24. *Clause 14 (section 32A).*—This clause is new. It authorises the ejectment of any raiyat who, after the commencement of the new law, uses the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy. The clause is based on section 25 (a) of the Bengal Tenancy Act, and is required to meet cases, as, for instance, those which have been frequent in Ranchi town, of raiyats transferring their holdings for building purposes.

25. *Clause 16 (section 34).*—We have recast this clause, and propose to repeal section 34 of Bengal Act I of 1879 altogether, and to substitute for it a new section, containing the following amendments:—

- (1) transfers of tenures or portions thereof, by sale, gift, mortgage or exchange, are required to be registered, as well as transfers by succession or inheritance;
- (2) the transferee himself, or his successor in title, is required to apply for registration;
- (3) provision has been made, on the analogy of section 12 (2) of the Bengal Tenancy Act, for the levy of a registration-fee by the landlord;
- (4) the clauses as to the time when application for registration should be made have been struck out, it being provided instead that the transferee shall not be entitled to recover rent until he has applied for registration and paid the registration-fee;
- (5) the clauses as to the Deputy Commissioner putting the landlord into possession of a tenure, on failure of the transferee to register a transfer, have been abandoned, since as a matter of practice such a procedure could not be worked by the Deputy Commissioner. It is considered preferable to debar the transferee from recovering rent until he applies for registration of a transfer and pays or tenders the requisite fee;
- (6) it has been expressly declared that the section shall not validate unlawful transfers, and shall not affect the right of the landlord to resume a resumable tenure;
- (7) it has also been expressly declared that the mere registration of a transfer shall not be deemed to imply the consent of the landlord to the transfer being made, and that the landlord shall not be bound by the terms or conditions of any transfer.

26. *Clause 19 (section 36A).*—As it is now proposed to abandon the present procedure for giving khas possession to a zamindar of a resumable tenure when the transferee fails to register his transfer, no distinction between resumable and permanent tenures in the matter of registration is needed, and so section

36A which appeared in clause 13 of the Bill as introduced has been struck out. Such of its provisions as it is necessary to retain have been embodied in the new section 34 introduced by clause 16 of the amended Bill.

27. The new section 36A, as to the annulment of incumbrances on the resumption of a resumable tenure, reproduces the Explanation to clause 2 (f) of the Bill as introduced, with the following substantive alterations:—

- (1) in the opening clause of sub-section (1) the words "or permission" are added for greater security;
- (2) we have struck out sub-clause (i) of the Explanation to clause 2 (f) of the Bill as introduced. It is contrary to the essence of a resumable tenure that the grantee should create an under-tenure, to be binding on the grantor of the tenure. Persons in whose favour such under-tenures are created are perfectly aware that the grantee of the tenure holds it subject to a right of resumption on the happening of some definite contingency, and that their rights must come to an end on the happening of such contingency. The sub-clause in question was taken from section 160 (a) of the Bengal Tenancy Act, 1885, and the considerations which make the sub-clause applicable in Bengal generally do not apply in Chota Nagpur. The abandonment of sub-clause (i) necessitates the abandonment of sub-clause (ii), and the latter has accordingly also been struck out;
- (3) in order to prevent holders of resumable tenures from being misled into thinking they have a right to minerals, we have inserted the words "under lawful authority" after "or wherein a mine has been sunk," in clause (a), and have added a sub-section to declare expressly that this clause shall not be construed to confer on such holders any right over minerals which they do not otherwise possess;
- (4) we have inserted clauses to protect from annulment any right to hold terraced lands known locally as "korkar" and by other synonymous names, also any right to hold land occupied by a sacred grove, and any mundari khunt-kattidari tenancy;
- (5) sub-clause (v) of the Explanation to clause 3 (f) of the Bill as introduced saved from annulment any right conferred on an occupancy raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred. We are not in possession of facts sufficient to show that the clause is necessary, and we have struck it out.

28. *Clause 29 (section 88).*—Since it is proposed (*see* paragraph 15, *ante*) to amend section 10A so as to allow the sale of holdings for arrears of rent, we have, by the present clause, declared section 88 to apply to non-occupancy raiyats only.

Following clause 26 of the Bill, we have extended from 15 to 30 days the period within which payment will operate to stay the execution of a decree under section 88. We have also added a clause, based on section 66 (3) of the Bengal Tenancy Act, authorising the Court, for special reasons, to extend this period of thirty days.

Lastly, we have, in order to embody the decision of the High Court in the case of *Ram Narayan Singh v. Lala Roghunath Sahai*, I. L. R., 22 Calc., 467, inserted the word "final" in section 88.

29. *Clause 30 (section 123).*—We have, at the suggestion of the Ranchi Bar, added words to make it clear that all the provisions of the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act VIII of 1865), shall, as far as may be, apply to the sale of tenures, under Bengal Act I of 1879, for arrears of rent.

We have added words to make section 123 applicable to holdings. Since it is proposed (*see* paragraph 15, *ante*) to authorise the sale of raiyati holdings for arrears of rent, it is necessary to provide a procedure for effecting the sale, and the most convenient plan is to adopt the procedure for the sale of tenures.

We have added a proviso to empower the Commissioner to prohibit or stay the sale of any tenure or portion of a tenure. At present the sanction of the Commissioner to any such sale is needed. This we think needless to retain, but we would for administrative reasons give the Commissioner the power to prohibit or stay the sale of a tenure. The Commissioner has similar powers in respect of sales of tenures under the Code of Civil Procedure.

To bring the second proviso into harmony with clause 2 (*k*) as now amended, we have inserted the words "or his successor in title" after "grantor."

30. *Clause 32 (section 125).*—We have added a proviso, taken from section 278 of the Code of Civil Procedure, to declare that a claim by a third party alleging that he is in possession of a tenure which it is proposed to put up for sale shall not be inquired into if the Court considers that the claim was designedly or unnecessarily delayed. Such claims are now a fruitful source of delay, to obviate which this proviso is required.

Additions have been made to the earlier parts of section 125, in consequence of the extension (*see* paragraph 29, *ante*) of section 123 to the sale of holdings.

31. *Clause 34 (section 130A).*—We have altered section 130A so as to make it follow section 310A of the Code of Civil Procedure (Act XIV of 1882), embodying an amendment appearing in the pending Bill for the amendment of the Code.

32. *Clause 37 (section 135).*—We have altered this clause so as to declare that orders passed after decree and relating to the execution thereof shall be appealable to the Court to which an appeal from the decree itself would lie. Unless this is done confusion may result.

33. *Clause 38 (sections 136 and 140).*—Following clause 26 of the Bill, we have extended from 15 to 30 days the period for an appeal to the Deputy Commissioner.

34. *Clause 39 (section 144).*—We have added a clause to section 144 to declare that a second appeal shall lie to the High Court from any appellate decree passed by the Judicial Commissioner under Bengal Act I of 1879. This clause will restore the law as it was interpreted prior to the decision in *Khedu Mahto v. Budhun Mahto* [1900], I. L. R., 27 Calc., 508. As so many amendments are proposed by the present Bill, we consider it desirable that an opportunity should be afforded for obtaining a decision of the High Court on points of construction that may arise in the future working of the Act.

35. *Clause 40 (section 144A).*—This clause is new. It introduces a section, at the suggestion of the Judicial Commissioner, authorising that officer to transfer appeals to his own Court from the Court of the Deputy Commissioner. The new section will tend to lessen the chance of different orders being passed by appellate Courts in analogous cases.

36. *Clause 41 (sections 151 to 164).*—We understand that it is very necessary to have measures taken that will check the agitation which has for long disturbed the people, locally known as Mundaris, who inhabit certain parts of the Chota Nagpur Division. One of the chief causes of this agitation is the treatment which hitherto has been accorded to the khunt-kattidars, or descendants of the original clearers of the soil. We have had the advantage of hearing and examining the officer to whom has been entrusted the work of preparing a record-of-rights of the tract where these Mundaris are chiefly congregated, and in our opinion the sections we have embodied in the Bill with regard to this question will have the desired effect, as far as it is practicable to secure it.

The restrictions on transfer are what those most conversant with the nature of the tenancy recognize as being necessary.

Since the sale of these tenancies is to be forbidden, it is necessary in the interests of the landlord to provide for some summary method by which, in case the rent falls into arrear, the moveables of the debtors can quickly be attached. For this reason, and also with a view to hasten the disposal of claims and to

lessen the costs, we have suggested, with regard to those tenancies for which a record-of-rights has been prepared, the employment for the realization of arrears of rent of the procedure of the Certificate Act, subject to certain restrictions.

We have also considered it essential to provide that the entries in the record-of-rights shall be final and conclusive, so that confidence may thereby be restored in the minds of these people.

37. *Clause 43 (Bengal Act IV of 1897, section 4).*—We have altered the words “legally assessable” to “fair and reasonable.” The latter words will, we consider, provide a better standard for fixing the rent payable after commutation of predial conditions or services.

38. *Clause 44 (Bengal Act IV of 1897, section 9A).*—This clause is new. It embodies a new section, the object of which is to save much expense to landlords and tenants, by providing for the concurrent preparation of the records-of-rights and the record and commutation of predial conditions or services.

39. We recommend that the Bill be passed as now amended.

F. A. SLACKE.

L. P. PUGH.

B. L. GUPTA.

A. EARLE.

ASUTOSH MUKHOPADHYAYA.

CHATURBHOOJ SAHAY.

Calcutta, the 13th July, 1903.

THE CHOTA NAGPUR TENANCY (AMENDMENT)
BILL, 1903.

[AS AMENDED BY THE SELECT COMMITTEE.]

A

BILL

To amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897.

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THE CHOTA NAGPUR TENANCY (AMENDMENT)
BILL, 1903.

[AS AMENDED BY THE SELECT COMMITTEE]

A

BILL

*To amend the Chota Nagpur Landlord and Tenant Procedure
Act and the Chota Nagpur Commutation Act, 1897.*

WHEREAS it is expedient to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897; Ben. Act I of 1879.
Ben. Act IV of 1897.

And whereas the previous sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, to the provisions of this Act which affect Acts passed by the Governor General of India in Council; 55 & 56 Vict., c. 14.

It is hereby enacted as follows:—

PART I.—PRELIMINARY.

Short title,
commence-
ment and ap-
plication.

1. (1) This Act may be called the Chota Nagpur Tenancy (Amendment) Act, 1903; and

(2) It shall come into force on such date as the Local Government, with the previous sanction of the Government of India, may, by notification in the Calcutta Gazette, appoint in this behalf. [Cf. Ben. Act IV
1897, s. 1 (5).]

(3) The provisions of this Act shall apply to all proceedings instituted after the commencement of this Act, and, so far as may be, to all cases pending in any Court or before any officer on the date of such commencement. [Cf. Act V of 1895,
s. 2 (3).]

PART II.—AMENDMENT OF THE CHOTA NAGPUR LANDLORD AND TENANT PROCEDURE ACT. Ben. Act I of 1879.

Amendment
of section 2 of
Bengal Act I
of 1879.

2. (1) In section 2 of the Chota Nagpur Landlord and Tenant Procedure Act, at the end of the definition of "Deputy Collector" the words "and any Sub-Deputy Collector who is specially empowered by the Local Government to discharge the functions of a Deputy Collector under this Act" shall be inserted.

(2) At the end of the same section the following shall be added, namely:—

"(a) 'bhagat bandha mortgage' means a transfer of the interest of a tenant in his tenancy, for the purpose of securing the payment of money advanced or to be advanced by way of loan, upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the tenancy during the period of the mortgage; [Cf. Act IV of 1882,
s. 58.]

"(b) 'Certificate Officer' means a Certificate Officer as defined in clause (2) of section 4 of the Public Demands Recovery Act, 1895: [Cf. Ben. Act VI of
1880, s. 3—"Certifi-
cate Officer."]
Ben. Act I of 1895.

"(c) 'Deputy Commissioner' means the Deputy Commissioner of a district, and includes any Revenue-officer whom the Local Government may from time to time appoint, by name or in virtue of his office, to discharge any of the functions of a Deputy Commissioner under this Act; [Cf. Act VIII of
1885, s. 3 (16).]

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clause 3.)*

- “(d) ‘holding’ means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy; [Cf. Act VIII of 1885, s. 3 (9).]
- “(e) ‘landlord’ means a person immediately under whom a tenant holds, and includes the Government; [Cf. Act VIII of 1885, s. 3 (4).]
- “(f) ‘moveable property’ includes standing crops;
- “(g) ‘mundari khunt-kattidar’ means a mundari who has acquired a right to hold jungle land for the purpose of bringing suitable portions thereof under cultivation by himself or by male members of his family, and includes—
- (i) the heirs male in the male line of any such mundari, when they are in possession of such land, and
 - (ii) as regards any portions of such land which have remained continuously in the possession of any such mundari and his descendants in the male line, such descendants;
- “(h) ‘registered’ means registered under the Indian Registration Act, 1877; [Cf. Act VIII of 1885, s. 3 (15).]
III of 1877.
- “(j) ‘rent’ includes also money recoverable under any enactment for the time being in force as if it was rent; [Cf. Act VIII of 1885, s. 3 (5).]
- “(k) ‘resumable tenure’ means a tenure which is held subject to the condition that it shall lapse to the estate of the grantor and be resumable by him or his successor in title—
- (i) on failure of male heirs of the body of the original grantee in the male line, or
 - (ii) on the happening of any definite contingency other than that referred to in sub-clause (i);
- “(l) ‘tenant’ means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person; [Cf. Act VIII of 1885, s. 3 (3).]
- “(m) ‘tenure’ means the interest of a tenure-holder, and includes an under-tenure, but does not include a mundari khunt-kattidari tenancy; [Cf. Act VIII of 1885, s. 3 (7).]
- “(n) ‘tenure-holder’ means primarily a person who has acquired from the zamindar, or from another tenure-holder, a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it; and includes also the successors in interest of persons who have acquired such a right, and the holders of tenures entered in the register prepared under section 5 of the Chota Nagpur Tenures Act, 1869, as confirmed under section 25 of that Act; but does not include a mundari khunt-kattidar; and Ben. Act II of 1869.
- “(o) ‘raiya’ means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners; and includes also the successors in interest of persons who have acquired such a right, but does not include a mundari khunt-kattidar. [Cf. Act VIII of 1885, s. 5 (2).]
- “*Explanation.*—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it. [Cf. Act VIII of 1885, s. 5 (2), *Expl.*]

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clauses 3, 4.)*

"A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder or immediately under a mundari khunt-kattidar. [Cf. Act VIII of 1885, s. 5 (3).]

"In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to local custom and to the purpose for which the right of tenancy was originally acquired. [Cf. Act VIII of 1885, s. 5 (4).]

Addition to section 6.

3. To section 6 of the said Chota Nagpur Landlord and Tenant Procedure Act the following shall be added, namely:— Ben. Act I of 1879.

"Any land which a raiyat has from time to time received in exchange for land previously held by him shall, for the purpose of calculating, under this section, the period of twelve years, be deemed to be the same land as the land which he held before the exchange. [Cf. Act XI of 1898, s. 44, Explan. II.]

"Every raiyat who cultivates or holds land known as korkar, baiballa, khandwat, sajhwat, jalsasan or ariat shall have a right of occupancy in such land so long as he pays the rent payable on account of the same, notwithstanding that he has not cultivated or held the land for a period of twelve years."

Insertion of new sections, 10A and 10B.

4. After section 10 of the said Act the following shall be inserted, namely:—

"10A. (1) No decree or order shall be passed by any Court for the sale of the right of a raiyat in his holding, nor shall any such right be sold in execution of any decree or order: [Cf. Act XI of 1898, ss. 46 (2), 70 (2).]

Restrictions on sale of raiyats' rights.

"Provided as follows:—

(a) any holding may be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the holding; and

(b) nothing in this section shall affect the terms or conditions of any contract registered before the first day of January, 1903.

"Explanation I.—Where a holding is held under joint landlords, and a decree has been passed for the share of the rent due to one or more, but not all, of them, proviso (a) does not authorise the sale of the holding in execution of such decree.

"Explanation II.—Proviso (b) does not render valid any document which is otherwise illegal or invalid, or authorise a Court to take judicial cognizance of any such document.

"Explanation III.—This sub-section does not prevent the sale of a holding for the recovery, under the Public Demands Recovery Act, 1895, of a loan granted for the benefit of the holding under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884. Ben. I of 1895. XIX of 1883. XII of 1884.

"(2) When a holding is sold for an arrear of rent which has accrued in respect thereof, the rent shall be a first charge on the holding. [Cf. Act VIII of 1885, s. 65.]

"10B. (1) No transfer by a raiyat of his right in his holding or any portion thereof, by mortgage or lease for any period exceeding five years, or by sale, gift or any other contract or agreement, shall be valid to any extent: [Cf. Act XI of 1898, ss. 46 (3), (5); 70 (3), (5).]

Restrictions on transfer of their rights by raiyats.

"Provided that a raiyat may enter into a bhagat bandha mortgage of his holding or any portion thereof for any period not exceeding seven years.

"(2) No transfer by a raiyat of his right in his holding or any portion thereof shall be binding on the landlord unless it is made with his consent in writing. [Cf. Act VIII of 1885, s. 88.]

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clauses 5—7.)*

“(3) No transfer in contravention of sub-section (1) or sub-section (2) shall be registered, or shall be in any way recognized or acted upon by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

“(4) At any time after the expiration of the period for which a raiyat has, under this section, transferred his right in his holding or any portion thereof, the Deputy Commissioner may, in his discretion, on the application of the raiyat, put the raiyat into possession of such holding or portion.”

Amendment
of section 11.

5. For section 11 of the said Chota Nagpur Landlord and Tenant Procedure Act the following shall be substituted, namely:—

Ben. Act I of 1879.

“11. (1) A landlord who, except under any special enactment for the time being in force, levies from a tenant any money in excess of the rent legally payable, with interest thereon, or any rakumats or predial services to which he is not legally entitled, shall, on the application of the tenant, be liable,

[Cf. Act XI of 1898, s. 10.]

Penalty on landlord levying anything in excess of rent or lawful rakumats or services.

under the order of a Revenue-officer not below the rank of Deputy Commissioner, or under the order of any officer who may be specially empowered by the Local Government in this behalf,

to pay as penalty such sum as such officer thinks fit, not exceeding two hundred rupees, or, when double the amount or value of what is so levied exceeds two hundred rupees, not exceeding double that amount or value.

“(2) Such sum shall be awarded to the tenant as compensation.”

Amendment
of section 12.

6. For section 12 of the said Act the following shall be substituted, namely:—

“12. (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord or his agent a signed receipt for the same, in a form prescribed by the Local Government from time to time by notification in the Calcutta Gazette.

[Cf. Act III of 1885, ss. 56 (1), (2), (3); 58.]

Receipts for rent.

“(2) The landlord or his agent shall prepare and retain a counterfoil of the receipt, in a form prescribed as aforesaid.

“(3) If any landlord or his agent, without reasonable cause, fails to grant such a receipt or to prepare and retain such a counterfoil, then, on proof thereof, the Deputy Commissioner may, in a summary proceeding, by order, impose on the landlord a fine which may extend to fifty rupees in respect of each such failure; and may, in his discretion, award to the tenant, by way of compensation, such portion of the fine as the Deputy Commissioner may think fit.

“(4) If, in any suit or other proceeding under this Act or any other law, the Court or presiding officer (not being the Deputy Commissioner) finds that any landlord or agent has failed—

(a) to deliver to a tenant a receipt in the prescribed form for rent paid by the tenant, or,

(b) to prepare and retain a counterfoil in the prescribed form of a receipt delivered to a tenant as aforesaid, such Court or officer shall inform the Deputy Commissioner.”

Amendment
of section 13.

7. (1) In section 13 of the said Act, for the words “or raiyat,” wherever they occur, the words “raiya or mundari khunt-kattidar” shall be substituted.

(2) In the same section, after the words “entertain a suit” the words “or application” shall be inserted.

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clauses 8—11.)*

(3) To the same section the following shall be added, namely:—

“A deposit may be made under this section in either of the following cases, namely—

[Cf. Act VIII of 1885, s. 61 (b), (c).]

(a) when an under-tenant, raiyat or mundari khunt-kattidar who is bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it; or

(b) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf.”

Amendment of section 14.

8. (1) In section 14 of the said Act, for the words “or raiyat,” in both places in which they occur, the words “raiayat or mundari khunt-kattidar” shall be substituted.

(2) To the same section the following shall be added, namely:—

“If no payment is made under this section before the expiration of three years from the date on which the deposit was made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Deputy Commissioner.”

[Cf. Act VIII of 1885, s. 64 (3).]

Amendment of section 15.

9. In section 15 of the said Act, after the word “brought” the words “and no application for a certificate under section 155 shall be made” shall be inserted; and after the word “instituted” the words “or application made” shall be inserted.

Amendment of section 17.

10. In section 17 of the said Act, for the words “or raiyat,” in both places in which they occur, the words “raiayat or mundari khunt-kattidar” shall be substituted.

Insertion of new sections, 28A and 28B.

11. After section 28 of the said Act the following shall be inserted, namely:—

“28A. When an order has been made, under any law for the time being in force, directing the preparation of a record-of-rights, then, notwithstanding anything contained in the foregoing sections, the Deputy Commissioner shall not—

[Cf. Act VIII of 1885, s. 111.]

(a) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and

(b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,

entertain any suit or application for the alteration of the rent or the determination of the status of any tenant in the area to which the record-of-rights applies.

“28B. (1) When the rent of a tenure or holding is entered in any such record-of-rights as finally published, then, notwithstanding anything contained in the foregoing sections,

[Cf. Act VIII of 1885, s. 113.]

Period for which rents as entered in record-of-rights are to remain unaltered.

such rent shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding or the holding of an under-raiyat having occupancy-rights, for seven years, and, in the case of a non-occupancy

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clauses 12—16.)*

holding or the holding of an under-raiyat not having occupancy rights, for five years;

and no such rent shall be reduced within the periods aforesaid save on the ground of alteration in the area of the holding or on the ground that the soil of the holding has, without the fault of the raiyat, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual.

“(2) The said periods of seven years and five years shall be counted from the date of the final publication of the said record-of-rights.”

Amendment
of section 30.

12. In section 30 of the said Act, for the word “six” the words “six and a quarter” shall be substituted.

Amendment
of section 31.

13. For section 31 of the said Act the following shall be substituted, namely:—

“31. Where an arrear of rent remains due from a non-occupancy raiyat at the end of the Bengali year, where that year prevails, or at the end of the month of *Jeyt*, where the *Fash* or *Wilayati* year prevails,

the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the raiyat.”

Insertion of
new section,
32A.

14. After section 32 of the said Act the following shall be inserted, namely:—

“32A. If any raiyat, after the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, uses the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, he shall be liable to be ejected from the land, but only in execution of a decree or order passed under the provisions of this Act.”

Amendment
of section 33.

15. In section 33 of the said Chota Nagpur Landlord and Tenant Procedure Act,

(a) for the words “or tenure,” in the first two places in which they occur, the words “tenure or mundari khunt-kattidar tenancy” shall be substituted;

(b) for the words “or tenure,” in the third place in which it occurs, the words “tenure or tenancy” shall be substituted; and

(c) for the words “or raiyat,” wherever they occur, the words “raiyyat or mundari khunt-kattidar” shall be substituted.

Amendment
of section 34.

16. For section 34 of the said Act the following shall be substituted, namely:—

“34. (1) When any tenure or portion thereof is transferred by succession, inheritance, sale, gift, mortgage or exchange, the transferee or his successor in title shall cause the transfer to be registered in the sarishta of the zamindar or superior tenant to whom the rent of the tenure or portion is payable.

“(2) Every zamindar or superior tenant shall, in the absence of sufficient reasons to the contrary, admit to registry and otherwise give effect to all such transfers.

“(3) Whenever any such transfer of a tenure or portion of a tenure is registered in the sarishta of the zamindar or superior

[Cf. Act VIII of 1885, s. 66 (1).]

[Cf. Act VIII of 1885, s. 25 (a).]

Ben. Act I of 1879.

[Cf. Act VIII of 1885, s. 12 (2).]

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clauses 17—19.)*

tenant, he shall be entitled to levy a registration-fee of the following amount, namely:—

- (a) when rent is payable in respect of the tenure or portion—a fee of two *per centum* on the annual rent thereof: provided that no such fee shall be less than one rupee or more than one hundred rupees; and
- (b) when rent is not payable in respect of the tenure or portion—a fee of two rupees.

“(4) When any such transfer has been made, the transferee or his successor in title shall not be entitled to recover, by suit or other proceeding, any rent payable to him as the holder of the tenure or portion until he has applied for the registration of the transfer and has paid the aforesaid registration-fee.

“(5) Nothing in this section shall be construed—

- (i) to validate a transfer of any tenure or portion thereof which, by the terms upon which it is held, or by any law or any custom having the force of law, is not transferable, or
- (ii) if a tenure is resumable, to affect the right of the zamindar or superior tenant to resume it.

“(6) The mere registration of a transfer, or the mere levy of a registration-fee, under this section, shall not be deemed to imply a consent to, or permission to make, the transfer, within the meaning of section 36A; and the zamindar or superior tenant shall not be bound by the terms or conditions of any such transfer.

Repeal of section 35. 17. Section 35 of the said Act is repealed.

Amendment of section 36. 18. (1) In section 36 of the said Act, for the words “the two last preceding sections,” the word and figures “section 34” shall be substituted.

(2) In the same section, after the word “transferee” the words “or other person in actual possession of the tenure” shall be inserted.

Insertion of new section, 36A. 19. After the said section 36 the following shall be inserted, namely:—

“36A. (1) Upon the resumption of a resumable tenure, every lien, sub-tenancy, easement or other right or interest created, without the consent or permission of the grantor or his successor in interest, by the grantee or any of his successors, on the tenure, or in limitation of his own interest therein, shall be deemed to be annulled, except the following, namely:—

- (a) any lease of land whereupon a dwelling-house, manufactory or other permanent building has been erected, or a permanent garden, plantation, tank, canal, place of worship or burning or burying ground has been made, or wherein a mine has been sunk under lawful authority; [Cf. Act VIII of 1885, ss. 159 to 161.]
- (b) any right of occupancy;
- (c) any right to hold land known as korkar, baiballá, khandwat, sajhwat, jalsásan or ariat;
- (d) any right to hold land occupied by a sacred grove; and
- (e) any mundari khunt-kattidari tenancy.

“(2) Nothing in clause (a) shall be construed to confer on any grantee of a resumable tenure, or any of his successors, any right over minerals which he does not otherwise possess.”

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clauses 20—29.)*

Partial repeal of section 37. 20. The words "or on account of the refusal of receipts for rent paid," in clause (2) of section 37 of the said Act, are repealed.

Amendment of section 39. 21. (1) At the beginning of section 39 of the said Act the following shall be inserted, namely:—

"Subject to such rules (if any) as may from time to time be made by the Local Government in this behalf."

(2) In the same section, for the word and figures "or 33" the figures and word "33 or 154" shall be substituted.

Amendment of section 44.

22. In section 44 of the said Act,—

(a) after the word "Suits" the words and figures "and applications under section 155" shall be inserted; and

(b) after the word "suit," in both places in which it occurs, the words "or application" shall be inserted.

Insertion of new section, 44A.

23. After the said section the following shall be inserted, namely:—

"44A. Where a landlord has instituted a suit, or applied for a certificate under section 155, against a raiyat or a mundari khunt-kattidar, for the recovery of any rent of his tenancy, the landlord shall not institute another suit or apply for another such certificate against him for the recovery of any rent of that tenancy until after six months from the date of the institution or making of the previous suit or application."

[Cf. Act VIII of 1885, s. 147.]

Amendment of section 47.

24. In section 47 of the said Act, after the word "raiayat" the words "or mundari khunt-kattidar" shall be inserted.

Amendment of section 57.

25. In section 57 of the said Act,—

(a) for the words "or raiyat" the words "raiayat or mundari khunt-kattidar" shall be substituted, and

(b) for the words "a dependent taluk or other transferable tenure which, as hereinafter provided," the words "a tenure or holding which" shall be substituted.

Amendment of section 66.

26. In section 66 of the said Act, for the words "fifteen days," wherever they occur, the words "thirty days" shall be substituted.

Amendment of section 82.

27. (1) In the first paragraph of section 82 of the said Act, for the word "suit" the words "suit or other proceeding under this Act" shall be substituted.

(2) At the end of the same section the words "or other proceeding as aforesaid" shall be added.

Amendment of section 87.

28. In section 87 of the said Act, for the words "or under-tenant," in both places in which they occur, the words "under-tenant or mundari khunt-kattidar" shall be substituted.

Amendment of section 88.

29. (1) In section 88 of the said Act, before the word "raiayat," in both places in which it occurs, the words "non-occupancy" shall be inserted.

(2) In the same section, for the word "fifteen" the word "thirty" shall be substituted.

(3) In the same section, before the word "decree," where it last occurs, the word "final" shall be inserted. [See I. L. R., 22 Calc. 467.]

(4) To the same section the following shall be added namely:—

"The Court may, for special reasons, extend the period of thirty days mentioned in this section."

[Cf. Act VIII of 1885, s. 66 (3).]

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clauses 30—34.)*Amendment
of section 123.

30. (1) For the first sentence of section 123 of the said Act the following shall be substituted, namely:—

“If the decree is for an arrear of rent in respect of a tenure or holding, the decree-holder may make application for the sale of such tenure or holding; and the tenure or holding may thereupon be brought to sale, in execution of the decree, according to the provisions for the sale of under-tenures contained in the Bengal Rent Recovery (Under-tenures) Act, 1865; and all the provisions of that Act shall, as far as may be, apply:

Ben. Act VIII of
1865.

Provided that the Commissioner may, by order, in any case in which he may consider it desirable so to do,—

- (a) prohibit the sale of any tenure or portion thereof, or
- (b) stay any such sale for any period specified in the order:

“Provided also that any sale of a resumable tenure under this section shall not affect the right of the grantor or his successor in title to resume such tenure, but shall be made subject to such right.”

(2) In the last sentence of the said section for the words “an under-tenure” the words “the tenure or holding” shall be substituted.

Repeal of
section 124.

31. Section 124 of the said Chota Nagpur Landlord and Tenant Procedure Act is repealed.

Ben. Act I of 1879.

Amendment
of section 125.

32. (1) In section 125 of the said Act, for the words and figures “any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124,” the words “any tenure or holding” shall be substituted.

(2) In the same section, for the words “such under-tenure” the words “such tenure or holding” shall be substituted.

(3) Before the proviso in the same section the following shall be inserted, namely:—

“Provided that no such inquiry shall be made where the Court considers that the claim was designedly or unnecessarily delayed.”

[Cf. Act XIV of
1882, s. 278, prov.]

(4) Before the words “that no transfer,” in the same section, the word “also” shall be inserted.

(5) In the same section, for the words “an under-tenure” the words “a tenure” shall be substituted.

Partial repeal
sections 127
and 128.

33. The words and figures “if of the nature described in section 123 and not of the nature described in section 124,” in section 127 of the said Act,

and the words “of a saleable under-tenure or of a tenure the right and title in which is saleable,” in section 128 of the said Act,
are repealed.

Insertion of
new section,
130A.

34. After section 130 of the said Act the following shall be inserted, namely:—

[Cf. Act XIV of
1882, s. 310A.]

“130A. (1) When a tenure or holding has been sold for an arrear of rent due thereon, any person who owns the tenure or holding, or who has an interest therein under a title lawfully acquired before the sale, may, at any time within a period of thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court,—

Application to set aside
sale of tenure or holding.

- (a) for payment to the purchaser, a sum equal to five per centum of the purchase money, and

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clauses 35—41.)*

(b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation and sale, have been received by the decree-holder.

“(2) If such deposits are made within the said period, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure shall apply in the case of a sale so set aside.” XIV of 1882.

Amendment of section 133. 35. In section 133 of the said Chota Nagpur Landlord and Tenant Procedure Act, after the words “a Deputy Commissioner” the words “by general or special order” shall be inserted. Ben. Act I of 1879.

Amendment of section 134. 36. In section 134 of the said Act, after the word “duties” the words “and the exercise of their powers” shall be inserted.

Amendment of section 135. 37. (1) In section 135 of the said Act, before the words “shall be appealable to the Commissioner,” the words and figures “and not being orders passed under section 119 or section 120” shall be inserted.

(2) At the end of the same section the following shall be added, namely:—

“Orders passed after decree and relating to the execution thereof shall be appealable to the Court to which an appeal from the decree itself would lie.”

Amendment of sections 136 and 140. 38. In sections 136 and 140 of the said Act, for the word “fifteen,” wherever it occurs, the word “thirty” shall be substituted.

Addition to section 144. 39. To section 144 of the said Act the following shall be added, namely:—

“A second appeal shall lie to the High Court, under Chapter XLII of the Code of Civil Procedure, from any appellate decree passed by the Judicial Commissioner under this Act.” [See L. L. R., 27 Cal., 508.] XIV of 1882.

Insertion of new section, 144A. 40. After section 144 of the said Act the following shall be inserted, namely:—

“144A. Where, in analogous cases, some appeals have been presented to the Deputy Commissioner and others to the Judicial Commissioner, the Judicial Commissioner may, on the application of any of the parties, transfer to his own Court the appeals pending in the Court of the Deputy Commissioner.”

Insertion of new sections, 151 to 164. 41. After section 150 of the said Act the following shall be added, namely:—

“Further provisions as to mundari khunt-kattidars.

“151. Such of the preceding sections as are applicable to mundari khunt-kattidars shall, in their application to such kattidars and their tenancies, be read subject to the provisions of the following sections.

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clause 41.)*

"152. (1) No mundari khunt-kattidari tenancy or portion thereof shall be transferable by sale, whether in execution of a decree or order of a Court or otherwise: [Cf. Ben. Act I of 1879, ss. 10A, 10B, 123, 128; Act XIV of 1882, s. 320.]

Restrictions on transfer of mundari khunt-kattidari tenancies.

Provided that, when a decree or order has been made by any Court for the sale of any such tenancy or portion thereof, in satisfaction of a debt due under a mortgage (other than a usufructuary mortgage) which was registered before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, the sale may be made with the previous sanction of the Deputy Commissioner.

"(2) If the Deputy Commissioner refuses to sanction the sale of any such tenancy or portion thereof under the proviso to subsection (1), he shall attach the land and make such arrangements as he may consider suitable for liquidating the debt.

"(3) No mortgage of a mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a bhagat bandha mortgage for a period not exceeding seven years.

"(4) No lease of a mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a lease of one or other of the following kinds, when granted in respect of land of a village or tola of a village owned by a group of joint mundari khunt-kattidars, namely:—

- (a) mukarrari leases of uncultivated land, when granted to a mundari or a group of mundaris for the purpose of enabling the lessees or the male members of their families to bring suitable portions of the land under cultivation;
- (b) leases of uncultivated land, when granted to a mundari cultivator to enable him to cultivate the land as a raiyat.

"(5) Where a mundari khunt-kattidari tenancy is held by a group of mundari khunt-kattidars, no bhagat bandha mortgage or mukarrari lease of the tenancy or any portion thereof shall be valid unless it is made with the consent of all the mundari khunt-kattidars.

"(6) No transfer of a mundari khunt-kattidari tenancy or any portion thereof, by any contract or agreement made otherwise than as provided in the foregoing sub-sections, shall be valid.

"153. If any person, after the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, obtains possession of a mundari khunt-kattidari tenancy, or any portion thereof, in contravention of the provisions of section 152, the Deputy Commissioner may eject him therefrom; [Cf. Ben. Act I of 1879, s. 10B (4).]

Ejection of persons unlawfully obtaining possession of such tenancies.

and no suit shall be maintainable in any Court in respect of such ejection; but an appeal shall lie to the Commissioner, if presented within three months from the date of the ejection, and his decision shall be final.

"154. (1) The rent of a mundari khunt-kattidari tenancy may be enhanced only— [Cf. Ben. Act I of 1879, s. 19.]

Enhancement of rent.

- (a) by an order of the Deputy Commissioner, and
- (b) if it be shown before the Deputy Commissioner that the tenancy was created within a period of twenty years immediately preceding the presentation of the petition for enhancement.

"(2) An order of the Deputy Commissioner under sub-section (1) shall not enhance the rent of any such tenancy to an amount which would exceed one-half of the rent which would be payable for the land if it were held by a raiyat having a right of occupancy therein.

"(3) The provisions of sections 22 to 24 shall be applicable to proceedings for the enhancement of the rent of a mundari khunt-kattidari tenancy.

*The Chota Nagpur Tenancy (Amendment), Bill 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clause 41.)*

“155. (1) When an arrear of rent accrues in respect of a mundari khunt-kattidari tenancy for which a record-of-rights has been prepared under Chapter X of the Bengal Tenancy Act, 1885, or any other law for the time being in force,

no suit shall be maintainable in any Court for the recovery of the arrear; but the landlord may apply in writing to the Deputy Commissioner to make a certificate authorising the recovery thereof, with simple interest at six-and-a-quarter *per centum per annum*, under the Public Demands Recovery Act, 1895.

“(2) Upon receiving any such application, the Deputy Commissioner may, after making such inquiry and taking such evidence as he may consider necessary, make a certificate as aforesaid.

“(3) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount; and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost and on his responsibility, and not otherwise.

“(4) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895; and the following portions of that Act shall be applicable, namely, the proviso to section 7, sub-section (1); section 9, sub-sections (2) and (3); section 10, sub-section (1); and sections 11 to 14, 18, 19, 22 and 24 to 33:

Provided as follows:—

(a) a certificate made under this section may be enforced only by the attachment and sale of the moveable property of the person against whom the certificate is made, or by the attachment and realisation of rent or other debts due to him, or by execution against his person in the manner provided by this Act, or by any two or all of these processes; and

(b) no objection by any third person to the attachment or sale of crops shall be entertained except—

(i) an objection, by a mortgagee holding under a bhagat bandha mortgage, that the judgment-debtor has other moveable property or assets from which the sum due can be realised;

(ii) an objection, by a lessee holding under a mukarari lease as described in section 152, clause (a), that the land in respect of which the arrear accrued is included in his lease, and that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(iii) an objection, by a cultivator, that he is in possession of the land in respect of which the arrear accrued, that the land is recorded in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired such possession, and that the judgment-debtor has other moveable property or assets from which the sum due can be realised.

“(5) If no appeal is presented under section 32 of the Public Demands Recovery Act, 1895, or if any such appeal is decided against the judgment-debtor, the certificate shall become absolute, and shall have the same force and effect as a final decree of a Civil Court.

“(6) Notwithstanding anything hereinbefore contained, the Deputy Commissioner may, in any case, by written order setting forth the reasons therefor, refuse to make a certificate as aforesaid, or stay for any specified period the execution of any certificate which has been made.

“(7) An appeal shall lie to the Commissioner from any order made under sub-section (6), if presented within one month from the date of the order; and his decision shall be final.

VIII of 1885.

[Cf. Ben. Act VI of 1880, ss. 44A, 51A, 51B (j); Ben. Act IX of 1880, s. 49.]

Ben. Act I of 1895.

[Cf. Ben. Act VI of 1880, s. 57C; Ben. Act IX of 1880, s. 49.]

Ben. Act I of 1895.

[Cf. Ben. Act I of 1895, s. 16.]

Ben. Act I of 1895.

*The Chota Nagpur Tenancy (Amendment) Bill, 1903.**(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Clause 41.)*

“156. If, in the course of any proceedings under section 155, any question of title is raised which could, in the opinion of the Deputy Commissioner, more properly be determined by a Civil Court, the Deputy Commissioner shall refer such question to the principal Civil Court in the district for determination.

“157. (1) When an arrear of rent accrues in respect of a mundari khunt-kattidari tenancy for which no record-of-rights has been prepared, the landlord may institute a suit for the recovery of the arrear.

“(2) A decree or order made in any such suit may be enforced only by the attachment and sale of the moveable property of the defendant, or by the attachment and realisation of rent or other debts due to him, or by execution against his person in the manner provided by this Act, or by any two or all of these processes

“158. Where a mundari khunt-kattidari tenancy is held jointly by a group of khunt-kattidars,

and an objection to the making of a certificate under section 155, or to the execution thereof, or to the maintenance of a suit under section 157, is made on the ground that all the khunt-kattidars have not been made parties to the proceedings,

the objection shall not be entertained if it be shown that other khunt-kattidars could not be made parties without undue delay or expense.

“159. All mundari khunt-kattidari tenancies shall be so described in the record-of-rights prepared under Chapter X of the Bengal Tenancy Act, 1885.

“160. (1) At any time within three months from the date of the certificate of the final publication of the record-of-rights under the Bengal Tenancy Act, 1885, section 103A, sub-section (2), a suit may be instituted before the Revenue-officer who prepared such record, by presenting a plaint on stamped paper,

for the decision of any dispute regarding any entry of a mundari khunt-kattidari tenancy or the incidents thereof in the record, or regarding any omission to enter such a tenancy or any incident thereof in the record;

and the Revenue-officer shall hear and decide the dispute.

“(2) In all such suits the Revenue-officer shall, subject to any rules made by the Local Government in this behalf, adopt the procedure laid down in this Act for the trial of suits; and his decision shall, subject to an appeal to the Commissioner under section 161, be final.

“161. An appeal shall lie to the Commissioner from any decision of a Revenue Officer under section 160, if presented within three months from the date of the decision; and the decision of the Commissioner shall be final.

“162. Whenever a suit instituted under section 160 has been finally decided, a note of the decision shall be made in the record-of-rights, as finally published, by the Revenue-officer who prepared the record; and such note shall be considered as part of the record.

“163. When an order has been issued under section 101 of the Bengal Tenancy Act, 1885, in respect of any local area, estate, tenure or part thereof, no judgment, decree or order in any suit instituted thereafter shall be taken as evidence,

in any inquiry made by a Revenue-officer engaged in the preparation of a record-of-rights for such area, estate, tenure or part, under Chapter X of the said Act,

respecting any claim that any tenancy within that area, estate, tenure or part is or is not a mundari khunt-kattidari tenancy.

The Chota Nagpur Tenancy (Amendment) Bill, 1903.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act—Part III.—Amendment of the Chota Nagpur Commutation Act, 1897.—Clauses 42—44.)

"164. When a record-of-rights has been finally published under section 103A, sub-section (2), of the Bengal Tenancy Act, 1885, or amended under section 162 of this Act, the entries therein relating to mundari khunt-kattidari tenancies shall be conclusive evidence of the nature and incidents of such tenancies;

VIII of 1885.

and, if any tenancy in the area, estate or tenure for which the record-of-rights was prepared has not been recorded therein as a mundari khunt-kattidari tenancy, no evidence shall be received in any Court to show that such tenancy is a mundari khunt-kattidari tenancy."

Amendment
of Schedule C.

42. In Schedule C to the said Chota Nagpur Landlord and Tenant Procedure Act, after the word "suit" the words "[or, as the case may be, make an application]" shall be inserted.

Ben. Act I of 1879.

PART III.—AMENDMENT OF THE CHOTA NAGPUR COMMUTATION ACT, 1897.

Ben. Act IV of 1897.

Amendment
of proviso to
section 4 (3) of
Bengal Act IV
of 1897.

43. For the proviso to sub-section (3) of section 4 of the Chota Nagpur Commutation Act, 1897, the following shall be substituted, namely:—

"Provided that the amount payable in commutation shall be so fixed that the total annual rent of the land, including such amount as aforesaid, shall not exceed the rent which would be fair and reasonable if the land were not held subject to any predial conditions or services."

Insertion of
new section,
9A.

44. After section 9 of the said Act the following shall be inserted, namely:—

"9A. In every local area, estate, tenure or part thereof in which a survey is being made and a record-of-rights is being prepared under an order issued under section 101 of the Bengal Tenancy Act, 1885,

VIII of 1885.

and in which a record of predial conditions or services is being prepared and a commutation thereof is being made under an order issued under section 5 of this Act,

the following provisions shall have effect, instead of those contained in sections 6 to 9 of this Act, namely:—

(1) The Revenue-officer shall, at the time of attesting the preliminary record, ascertain all the predial conditions or services to which, by ancient custom, the general body of tenants are liable, and the cash values of such services;

and shall prepare a statement, in such form as the Board of Revenue may from time to time prescribe, showing the conditions, services and values so ascertained.

(2) In calculating the cash value of such services the Revenue-officer shall be guided by the provisions of section 4, sub-section (3).

(3) The Revenue-officer shall enter in the khatian of each tenant the cash value of the predial conditions or services (if any) to which such tenant is liable, as ascertained under clause (1).

(4) If any tenant, by ancient custom, is liable to any predial conditions or services other than those to which the general body of tenants are liable, or is not liable to all the predial conditions or services to which the general body of tenants are liable, the Revenue-officer shall also specify in the khatian the predial conditions or services to which such tenant is liable.

The Chota Nagpur Tenancy (Amendment) Bill, 1903.

(Part III.—Amendment of the Chota Nagpur Commutation Act, 1897.—Clause 45.)

- (5) The statement prepared under clause (1), and the entries in the khatian, shall be published in draft in the same manner and for the same period as the record-of-rights.
- (6) Objections as to entries or omissions, in the statement or khatian, relating to predial conditions or services, may be made under the same conditions as objections to entries in or omissions from the record-of-rights, and shall be disposed of in the same manner as such objections.
- (7) After the disposal of objections, the said statement, and the entries in the khatian relating to predial conditions or services, shall be finally published at the same time and in the same manner as the record-of-rights.
- (8) At any time within three months from the date of the certificate of the final publication of the record-of-rights under the Bengal Tenancy Act, 1885, section 103A, sub-section (2), a suit may be instituted before the Revenue-officer who prepared such record, by presenting a plaint on stamped paper, for the decision of any dispute regarding any entry in the record relating to predial conditions or services, or regarding any omission to enter any such conditions or services in the record; and the Revenue-officer shall hear and decide the dispute. [Cf. Act VIII of 1885, s. 106, as amended by Ben. Act I of 1903, s. 4.] VIII of 1885.
- (9) In all such suits the Revenue-officer shall, subject to any rules made by the Local Government in this behalf, adopt the procedure laid down in this Act for the trial of suits; and his decision shall, subject to an appeal to the Commissioner under clause (10), be final. [Cf. Act VIII of 1885, s. 107 (f).]
- (10) An appeal shall lie to the Commissioner from any decision of a Revenue-officer under clause (8), if presented within three months from the date of the decision; and the decision of the Commissioner shall be final."

Insertion of new section, Act, 1897, the following shall be inserted, namely:— Ben. Act IV of 1897.

"12A. No proceedings under this Act shall bar the right of any tenant or landlord to claim a reduction or enhancement of rent in accordance with law after such proceedings have been completed."

Saving of right to claim reduction or enhancement of rent.

CALCUTTA;
The 14th July, 1903. }

F. G. WIGLEY,
Secretary to the Bengal Council and
Assistant Secretary to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, JULY 22, 1903.

PART IV.

Bills of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

IN exercise of the power conferred by Rule 34 of the Rules for the Conduct of the Legislative Business of the Bengal Council, the Lieutenant-Governor is pleased to order the publication of the following Bill, which it is proposed to introduce in the said Council, together with the Statement of Objects and Reasons.

THE BENGAL SETTLED ESTATES BILL, 1903.

CONTENTS.

CLAUSE.

1. Short title and extent.
2. Definitions.
3. Application for permission to settle an estate.
4. Power to reject application.
5. Notification as to application.
6. Rejection or approval of application after Notification.
7. Settlement of estates for three generations.
8. Further remainders.
9. Further provisions in settlements.
10. Supplementary settlements and fresh settlements.
11. Form, publication and duration of permission.
12. Approval, stamping and registration of settlements.
13. Notification of instruments of settlement.
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22. Procedure for recovery of such arrears.
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24. Power to make rules.

[Explanation of references in square brackets on margin :—

“U. P. Act II of 1900” means the Oudh Settled Estates Act, 1900.

“Bill of 1893” means the Indian Perpetuities Bill, 1893.

“B. I. Bill of 1893” means the Indian Perpetuities Bill, 1893, as revised by the British Indian Association.]

A BILL

TO

FACILITATE THE FAMILY SETTLEMENT OF ESTATES IN BENGAL.

WHEREAS it is expedient to facilitate the making of family settlements of estates in Bengal;

And whereas the Bengal Land Revenue Sales Act, 1859, and the Transfer of Property Act, 1882, having been passed by the Governor General of India in Council, the previous sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows :—

Short title and extent.

1. This Act may be called The Bengal Settled Estates Act, 1903, and it extends to the whole of Bengal.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “estate” includes immoveable property, money and any jewellery or other moveable property which should, in the opinion of the Local Government, be treated as heirlooms;

(b) “settled estate” means an estate in respect of which a settlement made under this Act is for the time being in force; [U. P. Act II of 1900, s. 12.]

(c) “settlor” or “first tenant for life” means the person who makes a settlement under this Act;

(d) “second tenant for life” means the person appointed by a settlement made under this Act to succeed to a settled estate on the death of the first tenant for life;

(e) “tenant for life” means a first or second tenant for life;

(f) “son,” in the case of anyone whose personal law permits adoption, includes an adopted son; and [Ben. Act I of 1893, s. 3, cl. (49).]

(g) “incumbrance” includes any charge, debt, demand or claim. [U. P. Act II of 1900, s. 6, prov.]

(2) A person shall be deemed, for the purposes of this Act, to be “competent to contract” if he is of the age of majority according to the law to which he is subject, and is of sound mind and is not disqualified from contracting by any law to which he is subject. [Act IX of 1872, s. 11; U. P. Act II of 1900, s. 2.]

(3) All words and expressions used in this Act, which are defined in the Transfer of Property Act, 1882, shall have the same meaning as in that Act. [Bill of 1893, cl. 2; IV of 1882.]

Application for permission to settle an estate.

3. Any landholder who—

(a) is competent to contract, and

(b) has a permanent, heritable and transferable right in an estate, and

(c) is in possession of such estate,

may apply to the Local Government for permission to make a settlement of such estate or any portion thereof under this Act. [U. P. Act II of 1900, s. 3.]

Power to reject application.

4. The Local Government may, in its discretion, by written order, reject any such application, either summarily or after any inquiry which it may think proper to make. [U. P. Act II of 1900, s. 4.]

Notification as to application.

5. If any application made under section 3 is not rejected under section 4; and if the Local Government is satisfied that the applicant fulfils the conditions specified in clauses (a), (b) and (c) [U. P. Act II of 1900, s. 5.]

(The Bengal Settled Estates Bill.—Sections 6-9).

of section 3, the Local Government may, with the previous sanction of the Governor General in Council, publish a notification—

- (a) stating the purport of the application;
- (b) calling upon all persons, having or entitled to incumbrances enforceable against the applicant or the estate or portion of the estate to which the application relates, to send to the Local Government written notice of such incumbrances within a period of six months from the date of the notification, and
- (c) intimating that any objections to the proposed settlement, whether urged by incumbrancers or by other persons interested in the estate, which may be communicated to the Local Government in writing within the said period, will be duly considered.

Rejection or approval*
of application after
notification.

6. At any time after the expiration of the said period, and after considering any notices and objections received under section 5, and after such inquiry (if any) as it may think fit to make, the Local Government may, in its discretion, by written order, either—

[U. P. Act II.
of 1900, s. 6.]

- (a) reject such application, or
- (b) grant permission to make the proposed settlement, in respect either of the whole of the property to which the application relates or of any part thereof:

Provided that, if any incumbrances referred to in clause (b) of section 5 have been brought to the notice of the Local Government, such permission shall not be granted without the written consent of all persons having or entitled to the benefit of such incumbrances, unless—

- (i) the incumbrances are first discharged, or
- (ii) a condition is made for the insertion in the settlement of provisions, to be approved by the Local Government, for the discharge of the incumbrances, or
- (iii) the Local Government is satisfied that the persons having or entitled to the benefit of the incumbrances would not be prejudiced by the grant of such permission.

Settlement of estates
for three generations.

7. Every settlement made under this Act in respect of any estate shall provide that the estate shall be held by the settlor for his life, and thereafter by the eldest or only son of the settlor for his life, and thereafter by the eldest or only son of such son absolutely:

Provided that, if the settlor desires to exclude his eldest or only son from holding the estate, on the ground of proved incapacity or defect of character, the Local Government may permit him to provide that the estate shall, after his own life, be held by any other son of the settlor for his life, and thereafter by the eldest or only son of such son absolutely.

Further remainders.

8. Every settlement made under this Act shall also contain provisions for vesting the estate in some other person or persons in the event of the gift to the second tenant for life or his son failing to take effect.

Further provisions
in settlements.

9. (1) Every settlement made under this Act shall specify all incumbrances referred to in clause (b) of section 5 which have been brought to the notice of the Local Government.

(2) Every such settlement shall also contain such provisions as may be approved by the Local Government with regard to the following matters, namely:—

- (a) the discharge of incumbrances on the estate, and the payment of interest thereon;
- (b) the maintenance of the widows, unmarried daughters and relatives (other than the second tenant for life) of the settlor;

(The Bengal Settled Estates Bill.—Sections 10-12.)

(c) the management of the estate after the decease of the settlor and during the minority of the second tenant for life;

(d) the management of the estate after the decease of the second tenant for life and during the minority of the next successor.

(3) If any settlement made under this Act comprises money or moveable property, the settlement shall contain such provisions as may be approved by the Local Government for vesting such money or property in a trustee and for the investment of such money in securities authorised by section 20 of the Indian Trusts Act, 1882.

II of 1882.

(4) In addition to the various matters hereinbefore specified, the Local Government may require the insertion in any settlement made under this Act of any provision which it may think fit, and may make its approval of the settlement conditional on such insertion. [Bill of 1893, cl. 6 (3).]

Supplementary settlements and fresh settlements.

10. (1) At any time after a settlement has been made under this Act a tenant for life may, if he is competent to contract, apply to the Local Government for permission— [U. P. Act II of 1900, s. 7.]

(a) to make a supplementary settlement for the purpose of adding to the settled estate any further property in which he has a permanent, heritable and transferable right, and of which he is in possession; or

(b) to make a fresh settlement of the estate, in supersession of the former settlement.

(2) The provisions of sections 4, 5 and 6 shall apply to all applications for permission to make a supplementary settlement.

(3) When an application for permission to make a fresh settlement is received, the Local Government may, in its discretion, after such inquiry (if any) as it may think fit to make, by written order, either—

(i) reject such application, or

(ii) grant permission to make the proposed settlement, in respect either of the whole of the property to which the application relates or of any part thereof.

Form, publication and duration of permission.

11. (1) Every permission granted under any of the foregoing sections shall be in writing signed by one of the Secretaries to the Local Government, and shall contain a description of the property or person in respect of which the permission is granted, sufficient to identify the same. [U. P. Act II of 1900, s. 9.]

(2) Every such permission shall be published by notification, and shall remain in force until the expiry of twelve months from the date of the notification, or until the death of the applicant, whichever first happens.

Approval, stamping and registration of settlements.

12. (1) No settlement made under this Act shall take effect unless the instrument of settlement— [U. P. Act II of 1900, s. 10.]

(a) is of a non-testamentary character,

(b) is attested by two or more witnesses,

(c) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government, *1b.*

(d) is stamped as provided in sub-section (2), and

(e) is registered within three months after the said approval has been certified as aforesaid. *1b.*

(2) Every such instrument shall bear a stamp of a value equivalent to one-fourth of the annual net profits of the estate comprised in the settlement:

Provided that a stamp of one-third of such value may be affixed, with the previous sanction of the Board of Revenue, on arrangements being made to its satisfaction for the affixing of stamps for the rest of such value at subsequent dates within three years from the date of the instrument.

(The Bengal Settled Estates Bill.—Sections 13-18.)

(3) If any question arises, with reference to sub-section (2), as to the amount of the annual net profits of any estate, the decision of the Board of Revenue thereon shall be final.

(4) Subject to the foregoing provisions of this section, every such instrument shall take effect from the date of its registration.

[U. P. Act II
of 1900, s. 13
(2).]

Notification of instru-
ments of settlement.

13. When any instrument of settlement is registered, the registering-officer shall report the fact to the Local Government; and, on receipt of such report, the Local Government shall publish a notification stating the purport of the instrument and the office in which it has been registered.

[Bill of 1893,
cl. 4 (7).]

Abrogation of incon-
sistent laws.

14. No settlement duly made under this Act shall be liable to be avoided or set aside, and no provision therein shall be invalidated, by reason only that it contravenes—

(a) any provision of the Transfer of Property Act, 1882, or

IV of 1882.

(b) any law or rule for the time being in force for the prevention of perpetuities, or

(c) any family custom or any personal law or law of succession to which the family is subject.

Revocation of settle-
ment by tenant for life.

15. (1) A tenant for life of a settled estate may, at any time, if he is competent to contract, apply to the Local Government for permission to revoke, either wholly or as respects any particular property, any settlement made under this Act.

[U. P. Act II
of 1900, s. 8.]

(2) The Local Government, after considering the application, and the result of any inquiry made by it or under its orders, and any further particulars or information called for by it, may, in its discretion, by written order, either—

(a) reject the application, or

(b) grant the permission applied for, or

(c) grant permission to revoke the settlement as respects such property only as may be specified in the order.

Cancellation or
amendment of settle-
ment by Local Govern-
ment.

16. (1) Notwithstanding anything hereinbefore contained, the Local Government may at any time declare by notification that any settlement made under this Act in respect of a settled estate shall be deemed—

[U. P. Act II
of 1900, s. 14.]

(a) to be cancelled, or

(b) to be amended so as to exclude any portion of the estate described in the notification.

(2) On the publication of such notification the said settlement shall be deemed to be cancelled or amended as aforesaid, as the case may be.

Restrictions on aliena-
tion by tenant for life.

17. Except as provided in sections 18 and 19, a tenant for life of a settled estate shall not be entitled to sell, transfer, dispose of, alienate or convey, or to create any incumbrance upon, or to lease, the estate or any part thereof, or any of the profits thereof, for any greater interest or time than during his life.

[U. P. Act II
of 1900, s. 15.]

Sales by tenant for
life.

18. A tenant for life of a settled estate may, with the previous written consent of the Local Government, sell the estate or any portion thereof:

[B. I. Bill of
1893, s. 4 (2).]

Provided that the proceeds of every such sale shall be paid either—

(a) to the Official Trustee, if a deed be executed, in pursuance of section 8 of the Official Trustees Act, 1864, appointing him to be the trustee of such proceeds, or

XVII of 1864.

(b) if the Local Government so directs, to the Collector or to some other public servant,

to be held by him in trust to re-invest the same, with the previous written consent of the Local Government, in immoveable property, which shall, upon such re-investment, be and remain subject to the settlement in like manner, as if it had been originally comprised therein.

- (f) Instruments of settlement will be subject to a stamp duty equivalent to $\frac{1}{4}$ th of the annual net profits of the estates settled. The Board of Revenue may allow realisation of this stamp duty to be spread over a period not exceeding three years (clause 12).
- (g) A settlement may be revoked with the consent of Government (clause 15).
- (h) Alienations and leases by the tenant for life are restricted (clauses 17 and 19). Sales may be made only with the previous consent of Government, and sale proceeds must be paid to the Official Trustee or District officer in order to be re-invested in immoveable property which will be subject to the conditions of the original settlement (clause 18).
- (i) The sanction of Government will be required to the sale under Act XI of 1859 of settled estates for arrears of land revenue or other arrears recoverable as arrears of land revenue (clause 21).

CALCUTTA;

The 21st July, 1903.

F. G. WIGLEY,

Secretary to the Bengal Council and

Assistant Secretary to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, DECEMBER 23, 1903

PART IV. of the Bengal Council.

GOVERNMENT OF BENGAL.

VE DEPARTMENT.

THE following Bills were introduced in the Council of the Lieutenant-Governor of Bengal on the 19th December, 1903, and are hereby published for information, together with the Statements of Objects and Reasons:—

THE BENGAL PUBLIC PARKS BILL, 1903.

[*Explanation of marginal notes:—*

“Bot.” means the rules of the Sibpur Botanic Garden, printed on the 15th April, 1898.

“Zoo.” means the rules of the Alipur Zoological Garden, printed on the 30th January, 1899.]

A

BILL

for the regulation of Public Parks in Bengal.

WHEREAS it is expedient to protect public parks and gardens in Bengal from injury, and to secure the public from molestation and annoyance while resorting to such parks and gardens; [Cf. 35 & 36 Vict., c. 15, preamble.]
It is hereby enacted as follows:—

Short title
and appli-
cation.

1. (1) This Act may be called the Bengal Public Parks Act, 1903.

(2) It applies to the public parks and gardens mentioned in the Schedule, and may be applied to any other public park or garden in Bengal by order of the Local Government published in the Calcutta Gazette.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “park” means any public park or garden to which this Act applies by virtue of section 1, sub-section (2), or any order published thereunder;

(b) "superintendent" means the person in executive charge of a park; and, for the purposes of section 5, subsection (2), includes also—

(i) an assistant superintendent of a park, and

(ii) any member of the Managing Committee (if any) of a park; and

(c) "park-durwan" means any person appointed by the superintendent, by the authority to whom the superintendent is subordinate, to act as durwan of the park.

Power to make rules. 3. (1) The Local Government may make rules for the management and preservation of the park, and for regulating the use thereof by public. [Cf. 35 & 36 Vict., c. 15, s. 4.]

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the admission of persons into the park, and prescribe the fees to be paid therefor; [Zoo., rules 8 to 13 & 15; Bot., rule 2.]

(b) prohibit or regulate the bringing of bicycles or tricycles into the park; [Zoo., rule 15.] 17;

(c) prohibit the doing of all or any of the following things by persons other than employees of the park, that is to say, gathering anything growing in the park, breaking trees, branches or plants, cutting names or marks on trees, disfiguring buildings, furniture or monuments; [Bot., rule 6; Zoo., rule 15.]

(d) prohibit the purchase of any produce of the park otherwise than from the superintendent; [Bot., rules 7, 8.]

(e) prohibit shooting, bird-nesting or the catching of butterflies; [Bot., rule 13; Zoo., rule 15.]

(f) prohibit or regulate fishing, and prescribe fees to be paid by persons obtaining permission to fish; [Zoo., rule 10 (e).]

(g) prohibit bathing or the pollution of water by any other means; [Bot., rule 13; Zoo., rule 15.]

(h) prohibit the grazing of horses or ponies; [Bot., rule 12.]

(j) prohibit the teasing or annoying of animals or birds kept in the park. [Zoo., rule 15.]

(3) In making any rule under this section, the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

(4) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

Exhibition of copies of rules in park. 4. One or more copies, in English and in one or more vernacular languages, of all rules made under section 3 for observance by persons resorting to a park, and for the time being in force, shall be put up in the park in such conspicuous manner as the superintendent may deem fit calculated to give information to such person [Cf. 35 & 36 Vict., c. 15, s. 10.]

Refusal to
give name and
residence.

5. (1) If any person who, in the presence of a park-durwan in uniform, has committed or has been accused of committing a breach of any rule made under section 3, refuses, on demand of such durwan, to give his name and residence, or gives a name or residence which such durwan has reason to believe to be false, such person may be arrested by such durwan in order that his name or residence may be ascertained. [Cf. 35 & 36 Vict., c. 15, s. 5; Act V, 1898, s. 57.]

(2) When any person is arrested under sub-section (1) he shall forthwith be taken to the superintendent, or, if the superintendent be not present in the park or its immediate precincts, such person shall be taken to the nearest police-station.

(3) If the true name and residence of any person so taken to the superintendent be not ascertained within a reasonable time, the superintendent shall forthwith send for an officer of police, and shall detain the offender until the arrival of such an officer, and shall then deliver him into the custody of such officer to be taken to the nearest police-station.

(4) If the true name and residence of any person taken to a police-station under this section be not ascertained within a reasonable time, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

(5) When the true name and residence of any person arrested under this section have been ascertained, he shall be released.

(6) No person shall be detained under this section for a longer period than twenty-four hours from the time of his arrest.

General powers,
duties,
etc., of park-
durwan.

6. Every park-durwan shall, in addition to any powers and immunities specially conferred on him by this Act or by rules made hereunder, have, within the limits of the park to which he is appointed, all such powers, privileges, and immunities, and shall, within the said limits, be liable to all such duties and responsibilities, as a police-constable has and is liable to within the limits of the police-station in which such park is comprised: [Cf. 35 & 36 Vict., c. 15, s. 7; Act V, 1898, s. 4 (s).]

Provided that every park-durwan shall be subordinate to the superintendent.

Penalty for
assault on
park-durwan.

7. If any person assaults a park-durwan acting in the execution of his duty, he shall be liable to fine which may extend to two hundred rupees or to imprisonment for a term which may extend to six months. [Cf. 35 & 36 Vict., c. 15, s. 6.]

General powers,
etc., of
police-constables.

8. Every police-constable employed within the limits of a police-station shall have, within any park comprised in such limits, the powers, privileges, and immunities conferred on a park-durwan by this Act and any rules made hereunder. [Cf. 35 & 36 Vict., c. 15, s. 8; Act V, 1898 s. 4 (s).]

THE SCHEDULE.

PUBLIC PARKS AND GARDENS TO WHICH THIS ACT APPLIES IN THE FIRST INSTANCE.

[See section 1, sub-section (2).]

The Royal Botanic Garden, Sibpur.

The Zoological Garden, Alipur.

The Eden Gardens, Calcutta.

The Lloyd Botanical Garden, Darjeeling.

The Victoria Pleasance, Darjeeling.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide a procedure for the introduction of statutory rules for the regulation of public parks in Bengal. The principal parks are the Royal Botanic Garden at Sibpur and the Zoological Garden at Alipur. These gardens have hitherto been managed under rules which have not the force of law, and the absence of a legal sanction has led to difficulties in administering the rules.

The Bill is based on the Parks Regulation Act, 1872 (35 and 36 Vict., cap. 15), and its leading provisions are as follows.

It is proposed in clause 3 to empower the Local Government to make rules for the management and preservation of public parks, for regulating the use of such parks by the public, and for the imposition of fines, up to Rs. 100, for any breach of the rules. Clause 5 authorises the arrest of offenders who refuse to give their name and residence. Clauses 6 and 8 confer general powers on park-durwans and police-constables, respectively, and clause 7 provides penalties for assaulting a park-durwan.

The Bill will apply in the first instance to five public parks specified in the schedule, and power is given by clause 1 (2) to apply it, by order published in the Calcutta Gazette, to any other public park or garden in Bengal.

C. E. BUCKLAND.

The 9th December, 1903.

THE BENGAL TRAMWAYS (AMMENDMENT) BILL,
1903.

A

BILL

To amend the Bengal Tramways Act, 1883.

WHEREAS it is expedient to amend the Bengal Tramways Act, 1883; Ben. Act III of 1883.

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Tramways (Amendment) Act, 1903.

Amendment of
Ben. Act III of 1883,
section 41.

2. After the word "shorter," in the proviso to section 41 of the Bengal Tramways Act, 1883, the words "or longer" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to enable promoters and any local authority (such as a body of Municipal Commissioners) to provide, in any agreement for the construction of a tramway, that the local authority may postpone beyond the ordinary term of twenty-one years the exercise of their right to purchase the tramway. Power to fix the time of purchase by executive order is conferred by section 22 of the Indian Tramways Act, 1886 (XI of 1886); but that Act is not in force in Bengal, and it has been represented that the absolute period of twenty-one years, which is fixed for this Province by section 41 of the Bengal Tramways Act, 1883 (Ben. Act III of 1883), is so short as to prevent the investment of capital in the construction of tramways.

The 9th December, 1903.

L. P. SHIRRES.

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CLAUSE.

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73. Penalty for unlawful possession of exciseable articles.

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75. Penalty for unlawful export or transport.

76. Penalty for unlawful transfer of license.

77. Penalty for unlawful employment of women or children by licensed vendor.

78. Penalty for failure to produce license or for breach of rule or condition.

79. Liability of licensee for offences committed by his servant or agent.

80. Penalty for authorising or conniving at unlawful manufacture, cultivation or sale.

81. Penalty for vexatious entry, inspection, search, seizure, detention or arrest.

82. Penalty for delay in reporting arrest, &c., or in taking person arrested, or article seized, to Collector or Magistrate.

83. Penalty for neglecting to give information of, or to prevent, offence.

84. Penalty for neglecting to aid Excise-officer.

85. Penalty for not taking bail.

86. Penalty for not closing shop after notice.

87. Contempt of Court.

88. Punishment on second or subsequent conviction.

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[Notes.—(1) Substantive amendments which it is proposed to make in the existing law are, as far as possible, printed in italics.

(2) Sources from which the clauses of the Bill are taken are noted, in square brackets, on the right hand margin. The word "Act," where no number or year is affixed, means the Bengal Excise Act, VII of 1878 (*i.e.*, the new edition of the Act, as modified up to the 1st May, 1901).

(3) The corresponding sections of the Excise Act, 1896 (passed by the Governor General of India in Council for the United Provinces, the Punjab, the Central Provinces, Burma, Coorg and Ajmere), are noted in square brackets on the left hand margin.]

A

BILL

To consolidate and amend the Law in force [Act, title.]
in Bengal relating to exciseable articles * [See Ben. Act II of
and the revenue derivable therefrom. 1903, s. 2.]

WHEREAS it is expedient to consolidate [Act, preamble.]
and amend the law in force in Bengal
relating to the manufacture, sale, possession,
import, export and transport of exciseable
articles, † to the regulation and licensing of † [See Ben. Act II of
places in which such articles are sold, † 1903, s. 3.]
and to the collection of the revenue
derived from such articles;

*And whereas, the Acts mentioned in Part I
of the Schedule hereto annexed having been
passed by the Governor General of India in
Council, the previous sanction of the Governor
General has been obtained, under section 5 of
the Indian Councils Act, 1892, to the passing 55 & 56 Vict., c. 14.
of this Act ;*

*And whereas, the sanction of the Governor
General has also been obtained, under section 24 & 25 Vict., c. 67.
43 of the Indian Councils Act, 1861, to the
enactment of section 15 of this Act, which
imposes a duty on the importation of exciseable
articles ;*

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY.

Short title and extent.

1. (1) This Act may be called the [Act, s. 1.]
Bengal Excise Act, 1903.

(2) Except as provided in section 52, [Act, s. 2.]
sub-section (2), and section 72, sub-section
(2), it extends to the whole of Bengal.

Definitions.

[Cf. Act XII, 1896, s. 3.] 2. (1) In this Act, unless there is any- [Act, s. 4.]
thing repugnant in the subject or context,—

(a) "Board" means the Board of Re- [Act, s. 4.]
venue for Bengal ;

(b) to "bottle" means to transfer spirit or [New.]
fermented liquor from a cask or
other vessel to a bottle or other
receptacle for purposes of sale,
whether any process of rectification
be employed or not ; and includes
re-bottling ;

(c) "Calcutta District" means— [Act, s. 4.]

(i) the area within the local
limits of the ordinary origi-
nal civil jurisdiction of the
High Court of Judicature
at Fort William in Bengal ;
and

(Excise.—Chapter I.—Preliminary.—
Clause 2.)

- (ii) *the Suburbs of Calcutta and [New.] the Towns of Howrah and Bally, or so much of those areas as the Local Government may, by notification in the Calcutta Gazette, direct ;*
- (d) "Collector" includes also— [Act, s. 4.]
- (i) a Deputy Collector,
 - (ii) *for all purposes connected with the exercise and performance of powers and duties conferred and imposed upon him under section 44—a Superintendent of Excise Revenue, and*
 - (iii) any officer to whom the Collector may, with the previous sanction of the Commissioner, transfer any of his powers or duties under this Act ;
- (e) as regards areas for which a Commissioner of Excise is appointed under section 45, "Commissioner" means such Commissioner of Excise ; [Act, s. 33.]
- (f) "Excise-officer" means— [Act, ss. 34, 41.]
- (i) *the Commissioner,*
 - (ii) *the Collector,*
 - (iii) *a Superintendent of Excise-revenue, appointed under section 44, sub-section (1),*
 - (iv) any officer appointed under section 46, and
 - (v) *for all purposes connected with the exercise of powers conferred upon him by or under section 62 or clause (a) of section 63—any officer on whom such powers are so conferred ;*
- (g) "exciseable article" means any [Act, s. 4.]
spirit, fermented liquor or intoxicating drug, and any plant from which an intoxicating drug can be produced ;
- (h) "export" means to take out of Ben- [Mad. Act I, 1886, s. 3 (16).]
gal ;
- (j) "fermented liquor" means— [Act, s. 4.]
- (i) malt liquor of all kinds,
 - (ii) pachwai,
 - (iii) tari,
 - (iv) wine, and [Act XII 1896, s. (A).]
 - (v) any intoxicating liquor which [Act, s. 4.]
the Local Government may, by notification in the Calcutta Gazette, declare to be fermented liquor for the purposes of this Act ;
- (k) "import" means to bring into Ben- [Mad. Act I, 1886, s. 3 (16).]
gal ;
- (l) "intoxicating drug" means— [Act, s. 4.]
- (i) *all preparations of the hemp plant (Cannabis Sativa or Indica) ordinarily known in Bengal under the name of ganja, bhang, siddhi, or charas,*
 - (ii) every preparation and admixture of ganja, bhang, siddhi or charas, and

(Excise.—Chapter I.—Preliminary.—
Clause 2.)

- (iii) any drug or preparation or admixture thereof which the Local Government may, by notification in the Calcutta Gazette, declare to be an intoxicating drug for the purposes of this Act;
- (m) “licensed manufacturer” and “licensed vendor” mean, respectively, a manufacturer and a vendor licensed under this Act; and include any servant or agent of any such manufacturer or vendor;
- (n) “manufacture” means any process, whether natural or artificial, by which any spirit, fermented liquor, or intoxicating drug is produced or prepared, and includes—
- (i) re-distillation,
 - (ii) any process for the rectification of spirit or fermented liquor, and
 - (iii) the admixing of spirit or fermented liquor with any substance other than water only, for purposes of sale;
- (o) “pachwai” means any fermented rice, millet, or other grain, whether diluted or undiluted, and any liquid obtained therefrom, whether diluted or undiluted;
- (p) “place” includes also house, shop, boat, and raft;
- (q) “rectification” includes every process whereby spirit or fermented liquor is purified or is coloured or flavoured for purposes of sale by mixing any material therewith;
- (r) “spirit” means any liquor containing alcohol obtained by distillation, and includes spirits of every description, all liquors mixed with spirit, and all mixtures, compounds, or preparations made with spirit, whether such spirits, liquors, mixtures, compounds, or preparations be intended for medicinal purposes or not;
- (s) “still” includes any utensil, implement or apparatus, or any portion thereof, which is used or capable of being used for the manufacture of spirit;
- (t) “tari” means the sap of any kind of palm tree, whether fresh or fermented, and includes any preparation of tari, and
- (u) “transport” means to remove from one local area to another within Bengal.
- (2) The Local Government may, by notification in the Calcutta Gazette, declare what, for the purposes of this Act or any portion thereof, shall be deemed to be “country spirit” and “foreign liquor” respectively; and such declaration shall be binding on the Courts.
- (3) The Board may, by notification in the Calcutta Gazette, declare, with respect either to the whole of Bengal or to any specified local area, and as regards purchasers generally or any specified class of purchasers, what quantity of any excisable article shall, for the purposes of this Act, constitute a retail sale and a sale by wholesale, respectively.

(Excise.—Chapter II.—Manufacture and Storage.—Clauses 3-5.)

CHAPTER II.

MANUFACTURE AND STORAGE.

Manufacture of exciseable articles generally.
[Cf. Act XII, 1896, ss. 5, 12.]

3. (1) No person shall, except under [Act, ss. 5, 6, 7, 10A.] a license,—

- (a) construct or work a brewery, [Act, s. 6.]
- (b) construct or work a distillery after [Act, s. 7.] the manner in which distilleries are constructed or worked in Europe,
- (c) cultivate or collect any plants from [Act, s. 5.] which an intoxicating drug can be produced,
- (d) manufacture any exciseable article [Act, s. 5.] in any manner not hereinbefore specified, or
- (e) use or have in his possession any [Act, s. 10A; Mad. Act I, 1886, s. 12.] material or still for the purpose of manufacturing spirit, or any material or appliance for the purpose of manufacturing fermented liquor.

(2) Every such license shall be granted [Act, ss. 5, 6, 7.] by the Collector:

Provided that, in the case of any brewery [Act, s. 7.] or distillery which is constructed or worked after the manner in which breweries or distilleries are constructed or worked in Europe, and which is situated within twenty miles from the Calcutta District or such less distance from the Calcutta District as the Local Government may prescribe by notification in the Calcutta Gazette, the license shall be granted by the Collector of Calcutta.

Public distilleries for manufacture of country spirit, and depôts for warehousing country spirit.
[Cf. Act XII, 1896, s. 6.]

4. With the sanction of the Board, the [Act, s. 9.] Collector or the Commissioner may—

- (1) from time to time—
 - (a) establish public distilleries in which country spirit may be made;
 - (b) establish or license depôts in which [New.] country spirit may be warehoused;
 - (c) fix limits within which no country [Act, s. 9.] spirit, unless issued from a distillery or depôt established or licensed under this section or manufactured under a license granted under section 5, shall be introduced without a permit from the Collector; and
 - (d) fix limits within which no still shall be constructed or worked, and no spirit shall be manufactured (unless under a license granted under section 5), otherwise than at a distillery established under this section; and

(2) at any time discontinue any distillery or depôt so established.

Manufacture of country spirit in private distilleries.

5. Notwithstanding anything contained [Act, s. 9.] in section 3 or section 4, the Collector or the Commissioner may, with the sanction of the Board, at any time grant a license to any person for the manufacture of country spirit in a distillery licensed under section 3.

(Excise.—Chapter II.—Manufacture and Storage.—Clauses 6-9.)

Establishment or licensing of warehouses for storing intoxicating drugs.

6. With the sanction of the Board, [Act XII, 1896, s. 15.] the Collector or the Commissioner may, from time to time, establish or license bonded or other warehouses for the storage of intoxicating drugs.

Payment of warehouse-dues.

7. (1) If intoxicating drugs be lodged [Act XII, 1896, s. 15.] in a warehouse established under section 6, warehouse-dues shall be payable, at such rates and at such times as the Board may fix.

(2) Payments due under sub-section (1) shall be specified in a bill to be presented by the Collector to the person liable for the same; and, if any such bill is not discharged within ten days from the date of presentation, the Collector may, in discharge of the demand (any transfer or assignment of the drugs notwithstanding), cause to be sold, in such manner as he may think fit, such sufficient portion of the drugs as he may select.

(3) Out of the proceeds of such sale the Collector shall satisfy, first, the duty payable in respect of the drugs sold and, next, the demand in respect of which the drugs were sold, and shall then pay the surplus (if any) to the owner of the drugs on his application:

Provided that, if the drugs fail to produce a sum sufficient to satisfy the said duty and demand, the same shall not be sold, but shall be destroyed by, or by order of, the Collector:

Provided also that the application for such surplus (if any) as aforesaid be made within a period of one year from the date of the sale of the drugs, or that sufficient cause be shown for not making it within that period.

Period during which intoxicating drugs may remain warehoused.

8. (1) Any intoxicating drugs warehoused [Act XII, 1896, s. 16.] under this Act may be left in the warehouse in which they are deposited, or in any warehouse to which they may, in manner hereinafter provided, be removed, till the expiry of a period of two years from the date on which they were so deposited, or such further period (if any) as the Board may in any case direct; and the owner of any drugs remaining in a warehouse on the expiry of such period or further period (if any) shall forthwith clear the same:

Provided that, when the license for a warehouse licensed under this Act is cancelled, and the Collector gives notice of such cancellation to the owner of any drugs deposited in such warehouse, such owner shall, within seven days from the date on which such notice is given, remove such drugs to another warehouse or clear them.

(2) If the owner of any intoxicating [New.] drugs warehoused under this Act fails to clear them as directed by sub-section (1), the Board may direct them to be disposed of in such manner as it may deem fit.

Power to remove intoxicating drugs from one warehouse to another.

9. Any owner of intoxicating drugs [Act XII, 1896, s. 17.] warehoused under this Act may, at any time within a period of two years from the date on which the drugs were so warehoused or such further period as the Board may in any case direct, with the permission of the Collector and on such conditions and after giving such security (if any) as the Collector may direct, remove the drugs from one warehouse to another, whether established or licensed under this Act, or under any other enactment for the time being in force.

(Excise.—Chapter II.—Manufacture and Storage.—Clauses 10—12.)

Duty on exciseable articles manufactured in Bengal.
[Cf. Act XII, 1896, ss. 7, 8, 13.]

10. (1) No exciseable article manufactured in Bengal shall be removed from any brewery, distillery, depôt, warehouse or other place of storage licensed, established or authorised under this Act unless—

- (a) such duty (if any) as the Local Government may fix in respect of such article has been paid, or
- (b) a bond for such duty has been executed, or
- (c) in the case of spirit, duty in respect of the materials used in making the same has been levied at such rates and in such manner as the Local Government may direct:

Provided that the Board may exempt from payment of duty any exciseable article which is removed as aforesaid for the use of the Government:

Provided also that the Board may, subject to such conditions as it thinks fit to impose, exempt from the provisions of this sub-section any exciseable article removed as aforesaid for transport to a depôt, warehouse or other place of storage duly licensed, established or authorised under this Act, or for export.

Explanation 1.—Duty may be fixed or made payable under this sub-section at different rates for different classes of exciseable articles and for different areas.

Explanation 2.—Duty may be fixed or made payable under this sub-section at different rates according to the places to which any exciseable articles are to be removed for consumption.

(2) Sub-section (1) shall not apply to—

- (i) spirit, intended to be used exclusively in arts or manufactures or in chemistry, which is removed from a licensed distillery under the provisions of the Excise (Spirits) Act, 1863, or
- (ii) spirit removed from a licensed distillery, under the provisions of Chapter XIV of the Sea Customs Act, 1878, for exportation.

Destruction of intoxicating drugs certified to be unfit for use.

11. Notwithstanding anything contained in the foregoing provisions of this Chapter, intoxicating drugs which are certified by the Collector to be unfit for use shall not be removed from any warehouse or other place of storage licensed, established or authorised under this Act, but shall be destroyed by, or by order of, the Collector.

Power to make rules.
[Cf. Act XII, 1896, ss. 9, 10.]

12. The Board may make rules—

- (a) for the granting of licenses under section 3, section 4, section 5 or section 6;
- (b) as to the management of breweries and distilleries licensed under section 3;
- (c) as to the management of distilleries and depôts established under section 4, and the conditions on which spirit may be manufactured in such distilleries or warehoused at such depôts;
- (d) as to the inspection and supervision of stills;
- (e) as to the number, size and description of stills which may be used in any distillery or licensed out-still, and of utensils, implements

(Excise.—Chapter III.—Sale and Possession.—Clauses 13—15.)

and apparatus which may be used in any still;

- (f) fixing the rates at which, and the times at which, warehouse-dues shall be payable under section 7; [New.]
- (g) as to the supervision and control to be exercised over the cultivation and collection of plants from which intoxicating drugs can be produced, and the manufacture and storing of such drugs, for the purpose of securing the duty leviable thereon under section 10; [Act, s. 35.]
- (h) for regulating the destruction, under section 11, intoxicating drugs certified by the Collector to be unfit for use; [New.]
- (i) prohibiting the use of any article which the Board may deem to be noxious or otherwise objectionable in the manufacture of any spirit, fermented liquor or intoxicating drug; and [Mad. Act I, 1886, s. 29 (k).]
- (j) for regulating the removal of excisable articles from any brewery, distillery, depot, warehouse or other place of storage licensed, established or authorised under this Act. [Act, ss. 8, 10.]

CHAPTER III.

SALE AND POSSESSION.

License required for sale of excisable article. [Cf. Act XII, 1896, s. 21.]

13. (1) No excisable article shall be sold except under a license granted by the Collector and in accordance with the conditions expressed therein* : [Act, s. 11.]

(2) Provided that no license shall be required for any of the following sales, namely:—

- (a) the sale of foreign liquor lawfully procured by any person for his private use—when such sale is made by such person or his representatives in interest upon his quitting a station or after his decease; [Act, s. 53.]
- (b) the sale of tari intended to be used in the manufacture of gur or molasses; or [Act, s. 53.]
- (c) the sale of tari, intended to be used in the manufacture of bread, to a person holding a permit to use tari for the purpose of making bread. [Act, s. 53.]

Power to grant a general license to travelling merchants. [Cf. Act XII, 1896, s. 21 (b).]

14. Subject to such rules as the Board may prescribe, a general license may be granted to travelling merchants authorising them to sell foreign liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district. [Act, s. 12.]

Persons to whom intoxicating drugs or plants may be sold. [Cf. Act XII, 1896, s. 21 (d).]

15. A person who is licensed to cultivate or collect plants from which an intoxicating drug can be produced shall not sell such plants or any intoxicating drug produced therefrom except to— [Act, ss. 16, 61.]

- (a) a person to whom he is permitted by the conditions of his license to sell the same, or
- (b) a person authorised by written order of the Collector to purchase the same.

(Excise.—Chapter III.—Sale and Possession.—Clauses 16—19.)

License required for bottling foreign liquor for sale.

16. No person shall bottle any foreign liquor for purposes of sale, except under and in accordance with the conditions of a license granted by the Collector. [New.]

Sales by wholesale vendors and retail vendors, respectively.

17. (1) No licensed wholesale vendor shall sell any exciseable article by retail, and no licensed retail vendor shall sell any exciseable article by wholesale : [Act, s. 15.]

Provided as follows :—

(a) a licensed wholesale vendor may make a retail sale of, and a licensed retail vendor may sell by wholesale, any assortment of spirits or fermented liquors in any quantities which may respectively be specified in this behalf in rules made by the Board; and

(b) a licensed wholesale vendor may sell such small quantities of spirit or fermented liquor as may appear to the Collector to be intended for use only as samples. [Act, s. 60.]

(2) Nothing contained in sub-section (1) shall be deemed to prohibit the grant to the same person of both a wholesale and a retail license. [Act, s. 60.]

Possession of exciseable articles not obtained from a licensed vendor.

18. (1) No person shall have in his possession any exciseable article which has not been obtained from a licensed vendor of the same : [New.]

(2) Provided that sub-section (1) shall not apply to—

(a) any exciseable article in a brewery, distillery, depôt, warehouse or other place of storage licensed, established or authorised under this Act, or

(b) any exciseable article in the possession of a licensed vendor of the same, or

(c) any exciseable article in the possession of a person who has lawfully imported it, or

(d) any foreign liquor in the possession of any common carrier or warehouseman as such, or

(e) tari intended to be used in the manufacture of gur or molasses, or

(f) tari intended to be used in the manufacture of bread by a person holding a permit to use tari for that purpose, or

(g) tari intended to be used for domestic consumption, or

(h) intoxicating drugs in the possession of any person licensed to cultivate or collect the plants from which such drugs were produced.

Possession of exciseable articles in large quantities.
[Cf. Act XII, 1896, ss. 18 (2), 20, 30.]

19. (1) No person shall have in his possession any quantity of any exciseable article larger than that declared by the Board under section 2, sub-section (3), to constitute a retail sale of that article, unless he— [Act, s. 17.]

(a) holds a license to manufacture or sell the same, or

(b) is duly authorised to supply the same to licensed vendors, or

(c) holds a permit therefor from the Collector or from some officer empowered by the Local Government to grant such permits : [Act, s. 61.]

(*Excise.—Chapter III.—Sale and Possession.—Clauses 20—22.*)

(2) Provided that sub-section (1) shall not apply to—

- (i) any *foreign liquor* which is in the possession of any common carrier or warehouseman as such, or [Act, s. 61.]
- (ii) any *foreign liquor* which is in the possession of any person for his private use and not for sale, or [Act, s. 61.]
- (iii) *tari* intended to be used in the manufacture of *gur* or *molasses*, or [Act, s. 62.]
- (iv) intoxicating drugs in the possession of any person licensed to cultivate or collect the plants from which such drugs were produced. [Act, s. 62.]

Power to specially prohibit or restrict possession in certain cases.

20. *Notwithstanding anything contained in section 18 or section 19, the Board, with the sanction of the Local Government, may, by notification in the Calcutta Gazette, declare, in respect of any exciseable article manufactured beyond British India, or in respect of any exciseable article manufactured at any place in British India at which no duty of excise is levied upon the manufacture of such article,—* [Act, s. 4 ("foreign exciseable article"), s. 17A.]

- (a) that the possession of such article in any quantity whatsoever is absolutely prohibited in the areas specified in the notification, or
- (b) that such possession shall be limited to specified quantities unless the Collector grants a license for the possession of a larger quantity of such article:

Provided that no such declaration shall affect *foreign liquor* kept only for private use and not for sale.

Possession of exciseable articles on which duty has not been paid, &c.

21. *No person shall, without lawful authority, have in his possession any exciseable article which he knows or has reason to believe—* [Mad. Act I, 1886, s. 58.]

- (a) to have been removed from a brewery, distillery, depôt, warehouse or other place of storage licensed, established or authorised under this Act, or to have been imported, without payment of the duty (if any) leviable under section 10 or section 23, as the case may be, and without the execution of a bond for such duty, or
- (b) to have been imported in contravention of any rule made under this Act, or
- (c) to have been manufactured or transported in contravention of this Act or any rule made hereunder.

Power to make rules.

22. The Board may make rules—

- (a) for the granting of licenses or permits under this Chapter; [Act XII, 1896, s. 2 (1).]
- (b) for regulating the sale or supply of country spirit or fermented liquor to licensed retail vendors of the same; [Act, s. 35.]

[Cf. Act XII, 1896, s. 29.]

(Excise.—Chapter IV.—Import, Export and Transport.—Clauses 23, 24.)

- (c) for regulating the grant of licenses [Act, s. 35.] or permits to persons purchasing or storing intoxicating drugs for supply to licensed vendors of the same;
- (d) specifying the quantities of spirits or [New.] fermented liquors which may be sold in an assortment by licensed wholesale vendors and licensed retail vendors respectively under proviso (a) to section 17;
- (e) as to the supervision any control to [Mad. Act I, 186, s. 29 (j).] be exercised over the possession and storage of exciseable articles or any of them for the purpose of preventing the contravention of any provision of this Chapter; and
- (f) fixing for any local area the minimum [Mad. Act I, 186, s. 29 (j).] price below which or the maximum price above which any country spirit shall not be sold.

CHAPTER IV.

IMPORT, EXPORT AND TRANSPORT.

Duty on imports. 23. (1) No exciseable article shall be [Act, s. 19.]
[Cf. Act XII, 1896, ss. 31, imported unless—
32 (1).]

- (a) there be paid thereon the duty (if any) which the Local Government has fixed under section 10, clause (a), in respect of a like article when manufactured in Bengal, or, if no like article is manufactured in Bengal, then such duty (if any) as the Local Government may fix in this behalf, or
- (b) a bond for such duty has been executed [New.]

Provided that, when an article is imported [Act VIII, 1894, s. 7 (1),] from a province in British India and is protected by the certificate of an officer empowered in that behalf by the Local Government of that province, the duty payable under this subsection shall be the sum (if any) by which the duty indicated in clause (a) exceeds the duty shown by such certificate to have been already paid in respect thereof.

(2) Sub-section (1) shall not apply to any [New.] article which is subject, upon importation, to duty under the Indian Tariff Act, 1894, or the Sea Customs Act, 1878.

Power to make rules imposing conditions on importation and regulating bonding.
[Cf. Act XII, 1896, s. 32 (2).]

24. (1) When a duty is leviable under [Act, s. 19A.] section 23 on any exciseable article, the Board, with the sanction of the Local Government, may make rules—

- (a) imposing conditions on the importation of such article, and
- (b) regulating the placing of such article in bond and its removal from bond.

(Excise.—Chapter IV.—Import, Export and Transport.—Chapter V.—Farm of Fees.—Clauses 25–29.)

(2) When any article has been placed in bond in pursuance of rules made under sub-section (1), the payment of the duty leviable under section 23 may, notwithstanding anything in that section, be deferred until the article is taken out of bond. [New.]

Prohibition of exportation without payment of excise duty.

25. (1) No exciseable article which has been imported and which was, upon importation, subject to duty under section 23, shall be exported unless it is proved to the satisfaction of the Collector that— [Mad. Act. I, 1886, ss. 7, 17 (b).]

- (a) such duty has been paid, or
- (b) a bond for such duty has been executed.

(2) No exciseable article which has been manufactured in Bengal shall be exported unless it is proved to the satisfaction of the Collector that—

- (i) the duty (if any) leviable thereon under section 10 has been paid, or
- (ii) a bond for such duty has been executed.

(3) Provided that the Board may, subject to such conditions as it thinks fit to impose, exempt any exciseable article from the provisions of this section.

Power to make rules imposing conditions on exportation.

26. The Board, with the sanction of the Local Government, may make rules imposing conditions on the exportation of exciseable articles or any of them. [Mad. Act I, 1886, s. 29 (j).]

Power to prohibit importation or exportation.

[Cf. Act. XII, 1896, s. 12(c).]

27. The Local Government, with the sanction of the Governor General in Council, may, by notification in the Calcutta Gazette, prohibit the importation or exportation of any exciseable article into or from Bengal or any part thereof.

Power to make rules as to transport.

[Cf. Act XII, 1896, ss. 12 (c), 17, 19, 20.]

28. The Board may make rules to regulate or prohibit the transport of exciseable articles or any of them. [Act, s. 35; Mad. Act I, 1886, s. 29 (j).]

CHAPTER V.

FARM OF FEES.

Powers of Collector as to farming of fees.

[Cf. Act XII, 1896, ss. 5 (2), 26.]

29. (1) The Collector, with the sanction of the Board, may—

- (a) let in farm the fees leviable in any local area on licenses for the retail sale of any exciseable article; [Act, s. 20.]
- (b) before entering into engagements for any such farm, make such reservations or restrictions as he may think fit with respect to the grant of licenses on the application of farmers; [Act, s. 23.]
- (c) within the period of any lease granted under this sub-section, impose any new restriction on the farmer; and [Act, s. 24.]
- (d) cancel any lease granted under this sub-section. [Act s. 24.]

(Excise.—Chapter V.—Farm of Fees.—
Chapter VI.—Provisions as to Licenses
and Permits.—Clauses 30–35.)

(2) The breach by a farmer of any condition contained in a lease granted to him under sub-section (1) shall render the lease liable to cancellation; and, when any lease is cancelled in consequence of any such breach, the farmer shall not be entitled to a refund of any fee which he has paid in respect thereof. [Act, s. 21.]

[Cf. Act XII, 1896, s. 27.] (3) If any restrictions be imposed under clause (c) of sub-section (1), or if any lease be cancelled for any cause other than a breach by the farmer of the conditions of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Board may think fit. [Act, s. 24.]

Grant of licenses on application of farmer. [Cf. Act XII, 1896, s. 25 (2).] 30. When the fees leviable on licenses for the retail sale of any exciseable article are let in farm, the Collector may, on the application of the farmer, and subject to any reservations or restrictions imposed under section 29, grant licenses for the retail sale of that article within the local limits of the farm. [Act, s. 22; Mad. Act I, 1886, s. 22.]

Recovery of arrears of fees due to farmer. [Cf. Act XII, 1896, s. 28.] 31. Every farmer may use the same means and processes for the recovery of any arrear of fees due to him from any licensed retail vendor as may lawfully be used by zamindars and farmers of land for the recovery of arrears of rent due to them from their under-tenants. [Act, s. 25.]

Power to make rules. [Cf. Act XII, 1896, s. 65 (b), (c), (d).] 32. The Board may make rules— [Act, s. 21.]
(a) for the invitation and acceptance of tenders for farms referred to in section 29;
(b) for the giving of security for the due fulfilment of the engagements entered into by any person taking a lease under the said section, and
(c) prescribing the form of, the conditions to be contained in, and the fees to be paid in respect of, such leases. [Act, s. 21; Act XII, 1896, s. 65 (b).]

CHAPTER VI.

PROVISIONS AS TO LICENSES AND PERMITS.

Licenses to execute counterpart, if required, and to furnish security. [Cf. Act XII, 1896, s. 65 (c), (d).] 33. Every person taking out a license under this Act shall— [Act, s. 26.]

- (a) execute a counterpart engagement in conformity with the tenor of the license, if required by the Collector to do so, and
- (b) give such security for the performance of his engagement, or make such deposit in lieu of security, as the Collector may require.

Fees to be specified in licenses and permits. 34. The fee payable for any license or permit in pursuance of rules made under section 42 shall be specified in the license or permit. [Act, s. 13.]

Licenses and permits where current. 35. Licenses and permits shall be current only in the local area or areas for which they were respectively granted. [Act, s. 12.]

(*Excise.—Chapter VI.—Provisions as to Licenses and Permits.—Clauses 36—39.*)

Duration of licenses.

36. (1) Every license which was granted under any section of the Bengal Excise and Licensing Act, 1878, and is in force at the commencement of this Act shall be deemed to have been granted under the corresponding section of this Act, and shall (unless previously cancelled or surrendered under this Chapter) remain in force for the period for which it was granted. Ben. VII of 1878.

[Cf. Act XII, 1896, s. 65 (a).]

(2) Except in cases where the Board otherwise specially directs, every license granted after the commencement of this Act shall remain in force for a period of one year only. [Act, s. 27.]

(3) If a licensee does not desire to have his license renewed, he shall give notice of the fact to the Collector at least fifteen days before the expiration of the aforesaid period.

(4) If such notice be not given, and if the license be not cancelled by the Collector, the license, and all engagements made thereunder by the licensee, shall remain in force for such time as the Collector may think fit, as if the license and such engagements had been formally renewed.

Transfer of license.

* 37. A license granted under the Bengal Excise and Licensing Act, 1878, or this Act shall not be transferred without the previous sanction of the Board. *[See Ben. Act II of 1903, s. 6.]
Ben. VII of 1878

Employment of women or children by licensed vendors.

† 38. (1) No licensed vendor shall, during the hours in which his licensed premises may be kept open for business, employ or permit to be employed in the public rooms of such premises, either with or without remuneration, any woman or any child under the age of twelve years to assist him in the conduct of such business in any capacity whatsoever, except with the previous written permission of the Board. † [See Ben. Act II of 1903, s. 7.]

(2) Every such permission shall be endorsed on the license, and may be modified or withdrawn.

Power to cancel license or permit in certain cases.

39. (1) The Collector may summarily cancel any license or permit— [Act, s. 29; Mad. Act I, 1886, s. 26.]

(a) if any fee payable by the holder thereof be not duly paid; or

(b) in the event of any breach by the holder thereof, or by any of his servants, or by any person acting with his express or implied permission, of any of the conditions of the license or permit or

(c) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to the revenue, or of any non-bailable criminal offence, or of any offence against the Merchandise Marks Act, 1889, or against any section which has been introduced into the Indian Penal Code by section 3 of that Act; or IV of 1889.
XLV of 1860

(d) if the holder thereof is punished for any offence referred to in clause 8 of section 167 of the Sea Customs Act, 1878; or [New.]
Cus- VIII of 1878.

(e) if the license was granted on the application of a farmer—on receiving from the farmer a written requisition for the cancellation of the same; or [Mad. Act I, 1886, s. 26 (d).]

(Excise.—Chapter VI.—Provisions as to
Licenses and Permits.—Clauses 40-42.)

(f) for any cause specified in this behalf [Act XII, 1896, s. 2 (3).]
in the license or permit.

(2) When a license or permit is cancelled in consequence of the holder thereof having been convicted of an offence referred to in clause (c) or punished for an offence referred to in clause (d), the Collector may summarily cancel all or any other licenses or permits granted to such holder under this Act or the Bengal Excise and Licensing Act, 1878

Ben. VII of 1878.

(3) When a license or permit is cancelled under sub-section (1) or sub-section (2), the licensee shall not be entitled to a refund of any fee which he has paid in respect thereof.

[Act, s. 29.]

Procedure for cancell-
ing license in other cases
[Cf. Act XII, 1896, s.
23 (1).]

40. (1) Whenever the Collector con- [Act, s. 29.]
siders that a license should be cancelled for any cause other than those specified or referred to in section 39, he shall remit a sum equal to the amount of the license fee for a period of fifteen days, and may cancel the license either—

- (a) on the expiration of fifteen days' previous notice in writing of his intention so to do, or
- (b) forthwith, without notice.

(2) If any license be cancelled under clause (b), the Collector shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum by way of compensation as the Commissioner or the Board may thereafter direct.

(3) When a license is cancelled under this section, any fee paid by the licensee in advance in respect of the license shall be refunded to the person entitled thereto.

Surrender of license.
[Cf. Act XII, 1896, s. 24.]

41. Any licensed vendor may sur- [A t, s. 30.]
render his license on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same, and on payment of a sum equal to the amount of the license fee for fifteen days in addition to the fee payable for the license for the whole period for which it would have been current but for such surrender:

Provided that, if the Commissioner is satis- [Act XII, 1896, s. 24 (2).]
fied that there is sufficient reason for sur-
rendering a license, he may remit to any
such vendor the sum so payable on surrender,
or any portion thereof.

Power to make rules.
[Cf. Act XII, 1896, s. 65.]

42. (1) The Board may make rules—

- (a) prescribing the form of any license or permit to be granted under this Act, and the conditions and particulars which may be inserted therein;
- (b) prescribing the fee (if any) payable for any such license or permit, and the time at which and the instalments (if any) by which it shall be payable; and
- (c) for determining the number of licenses of each description to be granted under this Act in any local area:

[Act, s. 28; Act XII,
1896, s. 65 (d).]

[Act, ss. 12, 13, 17A;
Act XII, 1896, s. 65
(b).]

[Mad. Act I, 1886, s.
29 (b).]

(Excise.—Chapter VII.—Officers and their Powers.—Clauses 43, 44.)

Provided that no fee shall be prescribed for [New.] a license for any still or appliance referred to in section 3, clause (e), which is not in actual use for the manufacture of spirit or fermented liquor.

Explanation.—Fees may be prescribed under [New.] this sub-section at different rates for different classes of licenses or permits and for different areas.

*(2) In particular, and without prejudice to the generality of the foregoing power, rules may be made to prescribe the insertion, in any license granted under this Act, of conditions relating to all or any of the following matters, to be observed by the licensee, namely:—

- (i) the place of sale and the places from which exciseable articles for purposes of sale may be obtained;
- (ii) the transfer of a license by the person to whom it was originally granted to any other person;
- (iii) the hours during which licensed premises may, or may not, be kept open;
- (iv) the persons or classes of persons to whom a licensee may, or may not, sell exciseable articles;
- (v) the employment of women and children under section 38;
- (vi) the keeping by licensed vendors of accurate accounts of sales of exciseable articles, in such form as may be prescribed by the Board;
- (vii) the placing of sign-boards over the shops of licensed vendors, in such form as may be prescribed by the Board.

CHAPTER VII.

OFFICERS AND THEIR POWERS.

Collector to have charge of the collection of the Excise-revenue.

43. *Except as otherwise provided by this [Act, s. 31.] Act, the collection of the excise-revenue shall be under the charge of the Collector.*

Appointment and powers of Superintendent of Excise-revenue, and withdrawal of Collector's powers.

44. (1) The Local Government may— [Act, s. 32; Mad. Act I, 1886, s. 4 (b).]

- (a) appoint any person to exercise all or any of the powers and to perform all or any of the duties of the Collector under this Act in any local area, either concurrently with or in exclusion of the Collector, and

(Excise.—Chapter VII.—Officers and their Powers.—Clauses 45-49.)

(b) when any such appointment has been made, withdraw from the Collector all or any of his powers and relieve him of all or any of his duties under this Act in such area. [Mad. Act I, 1886, s. 4(c).]

(2) Any person appointed under sub-section (1) shall be called a Superintendent of Excise-revenue. [Act, s. 32.]

Appointment of Commissioner of Excise. 45. The Local Government may appoint any person to be a Commissioner of Excise, either for the whole of Bengal or for any specified local area. [Act, s. 35.]

Appointment of Excise-officers. 46. The Commissioner, or the Collector with the sanction of the Commissioner, may from time to time appoint persons to be officers for— [Act, s. 34.]

(a) the inspection and supervision of breweries, distilleries, outstills and depôts, warehouses and other places of storage; [New.]

(b) the inspection of shops in which any exciseable article is sold; [New.]

(c) the collection of the excise-revenue, and [Act, s. 34.]

(d) the prevention and detection of offences against this Act or the rules made hereunder. [Act, s. 34.]

Recovery of amounts due to Government. 47. The Collector may recover any amount due to the Government under this Act or the rules made hereunder— [Act, s. 36.]

(a) by distress and sale of the movable property of the person from whom such amount is due or of his surety, or

(b) under the procedure provided by the Public Demands Recovery Act, 1895, for the recovery of public demands. [Ben. I of 1895.]

Power of certain Excise-officers to inspect places. 48. Any Excise-officer not below the rank of Sub-Inspector may enter and inspect at any time by day or by night any place in which any licensed manufacturer or licensed vendor carries on the manufacture or sale of any spirit, fermented liquor or intoxicating drug, or stores the same, or in which there is a still licensed under section 3. [Act, s. 37; Mad. Act I, 1886, s. 32.]

Power of certain Excise-officers to arrest person in possession of unlicensed still, &c., and to seize still, &c. 49. Any Excise-officer in the receipt of a monthly salary of not less than ten rupees may, without a warrant, arrest any person having in his possession any unlicensed still or any exciseable article which is liable to confiscation under this Act, or who is engaged in the unlawful manufacture or sale of any exciseable article or in the unlawful cultivation or collection of any plants from which an intoxicating drug can be produced, [Act, ss. 39, 51; Act XII, 1896, s. 37.]

(Excise.—Chapter VII.—Officers and their Powers.—Clauses 50-53.)

and may seize and carry away such still, article or plants and all materials used in such manufacture.

Power of Excise-officer to arrest person carrying article liable to confiscation, and to seize such article.

[Cf. Act XII, 1896, s. 36.]

50. Any Excise-officer may, in any public place,—

[Act ss. 38, 75; Act XII 1896, s. 36.]

- (a) stop and detain any person suspected of carrying any article which is liable to confiscation under this Act, and
- (b) seize and carry away such article together with any vessels, packages or coverings in which it is contained and any animal or conveyance used in carrying it, and
- (c) without a warrant, arrest the person in whose possession such article is found.

Power of certain Excise-officers to search on information of illicit manufacture or possession, and to seize articles and make arrests.

[Cf. Act XII, 1896, s. 38.]

51. Whenever any Excise-officer, not below the rank of *Sub-Inspector*, has reason to believe, from information given by any person (which information shall be taken down in writing),

[Act, s. 40.]

that in any place any exciseable article is unlawfully manufactured or any article liable to confiscation under this Act is kept or concealed,

such officer may enter into such place, and may seize and carry away such article and all stills and materials used in such manufacture,

and may, without a warrant, arrest the occupier of the place, with all other persons concerned in the manufacture of such article or in the keeping or concealing of such article.

Power of certain Excise-officers to enter chemist's shop, &c., and seize liquor and make arrests.

52. (1) Any Excise-officer, not below the rank of *Sub-Inspector*, who has reason to believe that any chemist, druggist, apothecary or keeper of a dispensary allows any spirit or fermented liquor which has not been *bonâ fide* medicated to be drunk on his business premises, by any person not employed in his business, may—

[Act, s. 43.]

- (a) enter upon such premises, and seize and carry away such spirit or liquor; and
- (b) without a warrant, arrest and detain the owner or occupier of such premises, with all persons concerned in such drinking.

(2) Sub-section (1) extends only to the town and suburbs of Calcutta, Howrah, and places to which it is extended by the Local Government by notification in the Calcutta Gazette.

Power to enter by force in case of resistance.

53. If any Excise-officer authorised to make an entry under section 48, section 51 or section 52 cannot otherwise make such entry, he may break open any outer or inner door or window and remove any other obstacle to such entry:

[Act, ss. 40, 43; Mad. Act I, 1886, s. 33.]

(Excise.—Chapter VII.—Officers and their Powers.—Clauses 54-57.)

Provided that, if the place to be entered is an apartment in the actual occupancy of a woman who, according to custom, does not appear in public, such officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it. [Act, s. 51; Act V, 1898, s. 48, prov.]

Power to examine, test, measure, or weigh,

54. Any Excise-officer acting under section 48, section 49, section 50, section 51 or section 52 may examine, test, measure or weigh any exciseable articles, stills or materials referred to therein. [Mad. Act I, 1886, s. 32.]

Procedure of Excise-officer making arrest, seizure or search.

55. Whenever an Excise-officer makes any arrest, seizure or search under this Act he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall, unless bail be accepted under section 64, take the person arrested or the article seized, with all convenient despatch to a Magistrate for trial or adjudication, or (if the Excise-officer is acting under the warrant of a Collector) to the Collector. [Act, s. 44.]

Power of Collector to issue warrant of arrest, [Cf. Act XII, 1896, s. 39.]

56. The Collector may issue his warrant for the arrest of any person whom he has reason to believe— [Act, s. 46.]

(a) to be, or to have been, engaged in the unlawful manufacture or sale of any exciseable article, or in the unlawful cultivation or collection of any plants from which an intoxicating drug can be produced, or

(b) to have in his possession any article liable to confiscation under this Act.

Power of Collector to issue search warrant, [Cf. Act XII, 1896, s. 40.]

57. (1) The Collector may issue his warrant for the search of any place in which he has reason to believe that any exciseable article is unlawfully manufactured, or that any article liable to confiscation under this Act is kept or concealed. [Act, s. 47.]

(2) Every such warrant shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, relating to searches and search-warrants, and [Act, ss. 47, 51 Cf. Bom. Act V, 1878, s. 40.]

V of 1898,

shall be executed by a Police officer or an Excise-officer or, if the Collector thinks fit, by some other officer to be selected by him:

(Excise.—Chapter VII.—Officers and their Powers.—Clauses 58-62.)

Provided that no warrant issued by the [Act, s. 42, prov.] Collector for execution in that part of the Calcutta district in which the administration of the Police is vested in the Commissioner of Police shall be executed by any Police-officer who is subordinate to the said Commissioner.

Procedure of Collector when arrest made or article seized under his warrant.

58. Whenever any person is arrested or [Act, s. 48.] any article is seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the article seized to a Magistrate, for trial or adjudication, or shall order the immediate discharge of such person or the release of such article.

Reports of breaches of Act.

59. Every person (not being an Excise-officer) employed by the Government shall be bound to give immediate information to an Excise-officer, [Mad. Act I, 1836, s. 37]

and every Excise-officer (other than the Commissioner or the Collector) shall be bound to give immediate information either to his immediate official superior or to the Collector,

of all breaches of any of the provisions of this Act which may come to his knowledge.

Prevention of breaches of Act.

60. Every person employed by the Government shall be bound to take all reasonable measures in his power to prevent the commission of any breach of any provision of this Act which he knows or has reason to believe to be intended. [Mad. Act I, 1836, s. 38.]

Certain officers to aid Excise-officers. [Cf. Act XII, 1896, s. 43.]

61. All Police-officers, village-chaukidars, [Act, s. 52; Bom. Act V, 1878, s. 39.] officers of the Customs, Land-revenue, Salt, or Opium Department, and officers employed by Port Commissioners shall be bound to aid any Excise-officer in the due execution of this Act, upon notice being given or request made by such Excise-officer.

Certain powers of Excise-officers exercise-able by other officers.

62. (1) Any Police-officer, not below the [Act, s. 43.] rank of Head-constable or such other rank as the Local Government may specify in this behalf, may exercise any of the powers conferred on Excise-officers by sections 50 and 52.

[Cf. Act XII, 1896, s. 44.]

(2) The Local Government may—

[Act, s. 41.]

(a) authorise any Police-officer, not below the rank of Head-constable or such other rank as the Local Government may specify in this

(Excise.—Chapter VII.—Officers and their Powers.—Clauses 63-65.)

behalf, to exercise all or any of the powers conferred on Excise-officers by sections 48, 49 and 51; or

- (b) authorise any officer of the Customs, Land-revenue or Salt Department to exercise all or any of the powers conferred on Excise-officers by sections 49, 50 and 51.

Police-officers in Calcutta to have certain powers of Excise-officers and the Collector.

63. (1) In that part of the Calcutta district in which the administration of the police is vested in the Commissioner of Police,—

- (a) the powers conferred on Excise-officers by sections 48, 49, 50 and 51 may also be exercised by any Police-officer specially selected by the said Commissioner for the purpose, and

(b) the powers conferred on the Collector by sections 56 and 57 to issue warrants may also be exercised by the said Commissioner:

Provided that every warrant issued by the said Commissioner shall be executed by a Police-officer selected as aforesaid.

(2) When a report of an arrest, seizure or search is made under this Act to the Commissioner of Police, he shall at once inform the Collector of the fact and of the circumstances of the case.

Bail.

64. (1) When any person is arrested under this Act and is prepared to give bail, he shall be released on bail.

(2) If the arrest be made by an Excise-officer below the rank of Sub-Inspector, and the person arrested is prepared to give bail, the officer shall for that purpose take the person arrested to the nearest Excise-officer of the said rank or any higher rank who is his official superior.

Explanation.—This sub-section does not apply where an arrest is made by an officer on whom powers are conferred by or under section 62 or by section 63.

(3) The provisions of sections 499 to 502 of the Code of Criminal Procedure, 1898, shall apply, so far as may be, in every case in which bail is accepted under this section.

Power of Collector, Magistrate or Police-officer to close shop for preservation of public peace and order.

65. (1) The Collector may, by written notice to the licensee, require that any shop in which any exciseable article is sold by retail shall be closed at such times or for such period as the Collector may deem necessary for the preservation of the public peace and order.

(2) If any riot or unlawful assembly occurs in the vicinity of any such shop, any Magistrate or Police-officer who is present may direct the person in charge thereof to keep it closed for such period as the Magistrate or Police-officer may deem necessary.

(Excise.—Chapter VIII.—Penalties and Procedure.—Clauses 66, 67.)

(3) When any Magistrate or Police-officer makes a direction under sub-section (2), he shall forthwith inform the Collector of the fact.

CHAPTER VIII

PENALTIES AND PROCEDURE.

Penalty for unlawfully manufacturing exciseable article.
[Cf. Act XII, 1896, s. 45(I).]

66. (1) Any person who, in contravention of section 3, sub-section (1),—

(a) constructs or works a brewery, or [Act, s. 55.]

(b) constructs or works a distillery [Act, s. 55.] after the manner in which distilleries are constructed or worked in Europe, or

(c) uses or has in his possession any material or still for the purpose of manufacturing spirit, or any material or appliance for the purpose of manufacturing fermented liquor, [Mad. Act I, 1886, s. 55 (g).]

shall be liable to simple or rigorous imprisonment for a term which may extend to four months, or to fine which may extend to one thousand rupees, or to both. [Act, s. 55; Mad. Act I, 1886, s. 55 (g).]

[Cf. Act XII, 1896, s. 48(I).]

[Cf. Act XII, 1896, s. 48 (a), (b), (c).]

(2) Any person who, in contravention of section 3, sub-section (1),—

(i) cultivates or collects any plants from which an intoxicating drug can be produced, or [Act, s. 54.]

(ii) manufactures any exciseable article in any manner not hereinbefore in this section specified, [Act, s. 53.]

shall be liable to simple or rigorous imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both. [Act, ss. 53, 54.]

Penalties for—

unlawfully introducing or manufacturing spirit, or constructing or working still, within limits fixed under section 4,

[Cf. Act XII, 1896, s. 46 (a).]

67. (1) Any person who,—

(a) within any limits fixed under section 4, clause (c), introduces without a permit from the Collector any country spirit which has not been issued from a distillery or dépôt established or licensed under that section or has not been manufactured under a license granted under section 5, or [Act, s. 58.]

(b) within any limits fixed under section 4, clause (d), constructs or works a still or manufactures spirit (unless under a license granted under section 5) otherwise than at a distillery established under the said section 4, [New.]

shall be liable to simple or rigorous imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both. [Act, s. 58.]

(Excise.—Chapter VIII.—Penalties and Procedure.—Clauses 68—70.)

leaving intoxicating drugs in warehouse in contravention of section 8 (1); (2) Any owner of intoxicating drugs [Now.] warehoused under this Act who leaves the same in a warehouse in contravention of section 8, sub-section (1), shall be liable to fine which may extend to fifty rupees.

unlawfully removing or importing exciseable article. [Cf. Act XII, 1896, s. 46 (b).]

(3) Any person who,—

(i) in contravention of section 10, or of [Act, s. 17] any rule made under section 12, removes any exciseable article manufactured in Bengal from a brewery, distillery, depôt, warehouse or other place of storage licensed, established or authorised under this Act, or

[Cf. Act XII, 1896, ss. 46 (c), (d), 48 (c).]

(ii) imports or deals with any exciseable article in contravention of [Act XII, 1896, ss. 43 (d), 48 (c).] section 23, or any rule made under section 24, or any notification issued under section 27,

shall be liable to simple or rigorous imprisonment for a term which may extend to four months, or to fine which may extend to one thousand rupees, or to both.

Penalties for unlawful sale. 68. (1) Any person who sells any exciseable article in contravention of section 13 or section 15 shall be liable to simple or rigorous imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both. [Act, ss. 53, 63.]

(2) Any licensed wholesale vendor or [Act, s. 60.] licensed retail vendor who sells any exciseable article in contravention of section 17, and any licensed retail vendor who sells any exciseable article by retail in any manner which is not covered by his license, shall be liable to simple or rigorous imprisonment for a term which may extend to two months, or to fine which may extend to two hundred rupees, or to both.

Penalty for unlawfully bottling foreign liquor for sale. 69. Any person who, in contravention [New.] of section 16, bottles any foreign liquor for purposes of sale, shall be liable to simple or rigorous imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both. [S. 59 of Bill of November, 1896.]

Penalty for adulteration or fraud. 70. If any licensed manufacturer or [Hom. Act V, 1878, s. 4 Mad. Act I, 1886, s. 5] licensed vendor—

(a) mixes or permits to be mixed, with any spirit, fermented liquor or intoxicating drug manufactured, sold, or kept or exposed for sale by him, any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any noxious drug or any article prohibited by rules made under section 12, clause (i), and such mixing does not amount to an offence under section 272 of the Indian Penal Code; or

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(b) sells, or keeps or exposes for sale, as foreign liquor, any liquor which he knows or has reason to believe to be country spirit; or

(c) marks any bottle, case, package or other receptacle containing country spirit, or the cork of any such bottle, or

deals with any bottle, case, package or other receptacle containing country spirit,

(Excise.—Chapter VIII.—Penalties and Procedure.—Clauses 71—74.)

with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor,

and such marking or dealing does not amount to an offence under section 482 of the said Indian Penal Code;

he shall be liable to simple or rigorous imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both.

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Penalty for permitting drunkenness in shop, &c.
[Cf. Act XII, 1896, s. 50.]

71. Any licensed vendor who permits drunkenness, riot or gaming in his shop, or permits any two or more persons who have been convicted of any non-bailable offence, or who are reputed prostitutes, to assemble in his shop, whether for the purposes of crime or prostitution or not,* or

receives any wearing-apparel or other effects in barter for any exciseable article,

shall be liable to fine which may extend to two hundred rupees.

Penalty for drinking or allowing drinking in chemist's shop, &c.

72. (1) Any chemist, druggist, apothecary or keeper of a dispensary who allows any spirit or fermented liquor which has not been *bona fide* medicated to be drunk on his business premises by any person not employed in his business, and

any person as aforesaid who drinks any such spirit or fermented liquor on such premises,

shall be liable to fine which may extend to two hundred rupees.

(2) Sub-section (1) extends only to the town and suburbs of Calcutta, Howrah, and places to which it is extended by the Local Government by notification in the Calcutta Gazette.

Penalty for unlawful possession of exciseable articles.
[Cf. Act XII, 1896, ss. 48 (d), 51.]

73. (1) Any person who possesses any exciseable article in contravention of section 18 or section 19, or of any notification published under section 20,

any licensed manufacturer or licensed vendor, or any person duly authorised to supply any exciseable article to licensed vendors, who has in his possession any spirit, fermented liquor or intoxicating drug which he knows to have been unlawfully obtained, or for which he cannot satisfactorily account, and

any person licensed to cultivate or collect any plants from which an intoxicating drug can be produced who fails to account, on the demand of any Excise-officer, for any quantity of such plants or of any intoxicating drug produced therefrom which has been in his possession,

shall be liable to fine which may extend to five hundred rupees.

(2) Any person who possesses any exciseable article in contravention of section 21 shall be liable to simple or rigorous imprisonment for a term which may extend to four months, or to fine which may extend to one thousand rupees, or to both.

Possession by wife, clerk or servant.

74. When any exciseable article is in the possession of a person's wife, clerk or servant on account of that person, it shall, for the purposes of this Act, be deemed to be in the possession of that person.

EXPLANATION.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant is a clerk or servant within the meaning of this section.

(Excise.—Chapter VIII.—Penalties and Procedure.—Clauses 75–80.)

Penalty for unlawful export or transport.

[Cf. Act. XII, 1896, s. 48 (e).]

75. Any person who exports any excisable article in contravention of section 25, or any rule made under section 26, or any notification issued under section 27, or transports any excisable article in contravention of any rule made under section 28, shall be liable to simple or rigorous imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both.

[Mad. Act I, 1886, s. 55(a).]

Penalty for unlawful transfer of license.

76. Any licensee who transfers his license in contravention of section 37, and any person to whom any license is so transferred, shall be liable to fine which may extend to five hundred rupees.

[New.]

Penalty for unlawful employment of women or children by licensed vendor.

77. Any licensed vendor who, in contravention of section 38, employs or permits to be employed in the public rooms of his licensed premises, any woman or child to assist him in the conduct of such business, shall be liable to fine which may extend to five hundred rupees.

[New.]

Penalty for failure to produce license, or for breach of rule or condition.

[Cf. Act XII, 1896, ss. 47, 52.]

78. Any licensed manufacturer or licensed vendor or other licensee who fails to produce his license on the demand of any Excise-officer, and

[Act, ss. 56, 59.]

any person who breaks any rule made under this Act or any condition of a license or permit granted under this Act for the breach of which rule or condition no other penalty is hereby provided,

shall be liable to fine which may extend to two hundred rupees.

Liability of licensee for offences committed by his servant or agent.

79. When any servant of a licensee, or any other person acting on behalf of a licensee, commits a breach of this Act, or of any rule made hereunder, or of any condition of a license or permit granted hereunder,

[Mad. Act. I, 1886 s. 61. Cf. Act s. 59.]

then such licensee shall be liable to the punishment to which such servant or other person is liable, notwithstanding that such servant or other person has been punished, and notwithstanding that the licensee did not himself commit such breach,

unless the licensee can prove that he took all reasonable precautions to prevent the committing of such breach.

Penalty for authorising or conniving at unlawful manufacture, cultivation or sale.

[Cf. Act XII, 1896, s. 53 (2).]

80. (1) Any owner or occupier of land, and any agent of any such owner or occupier, who authorises or connives at the unlawful manufacture or sale of any excisable article, or the unlawful cultivation or collection of any plants from which an intoxicating drug can be produced, shall be liable to simple or rigorous imprisonment for a term which may extend to four months, or to fine which may extend to one thousand rupees, or to both.

[Act, s. 65.]

(2) Any chemist, druggist, apothecary or keeper of a dispensary who authorises or connives at the unlawful manufacture or sale of any excisable article,

[New.]

any Excise-officer who connives at the unlawful manufacture or sale of any excisable article or the unlawful cultivation or collection of plants from which an intoxicating drug can be produced, and

[Act, s. 70.]

any officer invested with local jurisdiction who authorises or connives at the

[Cf. Act XII, 1896, s. 53 (2).]

(*Excise.—Chapter VIII.—Penalties and Procedure.—Clauses 81—86.*)

unlawful sale of any exciseable article within the limits of his jurisdiction,

shall be liable to simple or rigorous imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both. [Act, ss. 65, 70.]

Penalty for vexatious entry, inspection, search, seizure, detention or arrest.

[Cf. Act XII, 1896, s. 55.]

81. Any Excise-officer who,—

(a) without reasonable grounds of suspicion, enters, inspects or searches, or causes to be entered, inspected or searched, any place or,

(b) vexatiously and unnecessarily seizes any property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

(c) vexatiously and unnecessarily detains, searches or arrests any person,

shall be liable to simple or rigorous imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both.

Penalty for delay in reporting arrest, etc., or in taking person arrested, or article seized, to Collector or Magistrate.

[Cf. Act XII, 1896, s. 56.]

82. Any Excise-officer who, in contravention of section 55,—

(a) neglects to report the particulars of an arrest, seizure or search, or

(b) delays taking to the Collector or a Magistrate, as the case may be, any person arrested or article seized under this Act,

shall be liable to fine which may extend to two hundred rupees.

Penalty for neglecting to give information of, or to prevent, offence.

83. Any person who, being bound by section 59 or section 60 to give information of, or to take measures to prevent the commission of, breaches of provisions of this Act, without lawful excuse neglects or refuses to give such information or to take such measures, shall be liable to fine which may extend to two hundred rupees. [Mad. Act I, 1886, s. 63.]

Penalty for neglecting to aid Excise-officer.

[Cf. Act XII, 1896, s. 54.]

84. Any Police-officer, village-chaukidar, officer of the Customs, Land-revenue, Salt or Opium Department, or officer employed by Port Commissioners who, without lawful excuse, neglects or refuses to aid an Excise-officer as required by section 61 shall be liable to fine which may extend to five hundred rupees. [Act, s. 68.]

Penalty for not taking bail.

85. Any Excise-officer who, without sufficient reason, neglects or refuses— [Mad. Act I, 1886, s. 60, 63.]

(a) to release on bail any person arrested under this Act who is prepared to give sufficient bail, or

(b) to take any such person to an Excise-officer of higher rank as required by section 64, sub-section (2),

shall be liable to fine which may extend to two hundred rupees.

Penalty for not closing shop after notice.

86. Any licensee or person in charge of a shop in which any exciseable article is sold who fails to close the same as required by a notice or direction given or made under section 65 shall be liable to fine which may extend to two hundred rupees. [Mad. Act I, 1886, s.]

(Excise.—Chapter VIII.—Penalties and Procedure.—Clauses 87—93.)

- Contempt of Court. 87. Every proceeding under this Act [Act, s. 73.] before a Collector shall be deemed to be a "judicial proceeding" within the meaning of section 228 of the Indian Penal Code.
XLV of 1860.
- Punishment on second or subsequent conviction. 88. Any person who is convicted of an [Act, s. 74.] offence punishable under this Act, after having been previously convicted of any offence punishable under this Act or the Bengal Excise and Licensing Act, 1878, shall be liable to twice the punishment which might be imposed on a first conviction.
Ben. VII of 1878.
- Attempts and abetments. 89. Whoever attempts to commit, or [Act, ss. 54, 57, 8.] abets the commission of, any offence punishable under this Act shall be liable to the punishment provided for such offence.
[Cf. Act XII, 1896, s. 59.]
- Initiation and limitation of prosecutions. 90. (1) No Magistrate shall take cognizance of an offence punishable under any of the following sections, namely, 66, 67, 68, 69, 70, 72, 73, 75, 78, 80, 83 and 86, except on the complaint or report of an Excise-officer.
[Cf. Act XII, 1896, s. 57.]
(2) No Magistrate shall take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.
- What articles liable to confiscation. 91. The following things shall be [Act, ss. 54, 55, 75; Mad. Act I, 1896, s. 65.] liable to confiscation under this Act, namely:—
[Cf. Act XII, 1896, ss. 45 (2), 46 (2), 48 (2), 61.]
(a) all exciseable articles in respect of which any offence punishable under section 66, section 67, section 69, section 70 or section 73 has been committed,
(b) all stills referred to in clause (b) of section 67;
(c) all materials, stills and appliances used or possessed for the purpose of manufacturing any exciseable article in contravention of this Act,
(d) all exciseable articles transported in contravention of any rule made under section 28, and
(e) all vessels, packages and coverings containing or covering, and animals and conveyances used in carrying, any article referred to in the foregoing clauses.
- Order of confiscation to be passed by Magistrate. 92. Any article liable to confiscation [Act, s. 72.] under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate exercising jurisdiction in any part of Bengal in which the article is found.
[Cf. Act XII, 1896, s. 61.]
- Seizure and disposal of exciseable articles unlawfully sold. 93. (1) If any exciseable article is [Act s. 50.] sold in contravention of this Act, or in breach of any of the conditions of a license granted under this Act, it may be seized by any Excise-officer at the time of such sale and brought before a Magistrate.

(Excise.—Chapter VIII.—Penalties and Procedure.—Chapter IX.—Cantonments and Municipalities.—Clauses 94–96.)

(2) If the article has been purchased in good faith at such sale, the Magistrate may, as soon as his adjudication is made known, restore the article to the purchaser.

(3) If the article is not so restored to the purchaser, it shall be disposed of as the Magistrate may direct.

Compounding.

94. (1) Whenever confiscation is authorised by this Act, the Magistrate ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such sum as the Magistrate thinks fit. [Act I, 1878, s. 12, para. 2.]

(2) When any license or permit is liable to be cancelled under section 39, or when any person is liable to prosecution under section 68 or section 78, the Collector may, instead of enforcing such cancellation, or instituting such prosecution, accept from the offender a sum of money not exceeding two hundred rupees. [Mad. Act. I, 1886, s. 67.]

Rewards for detection of offences and arrest of offenders.
[Cf. Act XII, 1896, s. 60.]

95. (1) When any fine is imposed by a Magistrate under section 66, 67, 68, 69, 70, 71, 72, 73, 75, 78, 80, 83, 86, 88 or 89, [Act, ss. 76, 77.]

or when any article is confiscated by order of a Magistrate under section 92,

or when any sum is paid with the permission of a Magistrate under section 94, sub-section (1),

the Magistrate shall inform the Collector.

(2) The Collector may, under such rules as the Board may prescribe, award to any person who has contributed in any way—

(a) to the detection of the offence in respect of which any such fine was imposed or any such articles were confiscated or any such sum or any sum accepted under section 94, sub-section (2), was paid, or

(b) to the arrest of the offender,

the whole or any portion of such fine, or of the proceeds of such confiscation, or of such sum.

CHAPTER IX.

CANTONMENTS AND MUNICIPALITIES.

Manufacture and sale of exciseable articles in military cantonments.
[Cf. Act XII, 1896, s. 62.]

96. (1) Within the limits of any military cantonment, and within a distance of two miles, or such other distance as the Local Government may in any case, by notification in the Calcutta Gazette, prescribe, from those limits, no license for the manufacture or sale of any exciseable article shall be granted, nor shall the fees leviable on licenses for the retail sale of any exciseable article be let in farm, unless with the knowledge and consent of the Commanding Officer. [Act, s. 80.]

(2) Upon the requisition of such officer, any such license which has been granted within such limits or distance shall immediately be cancelled.

(*Excise.—Chapter IX.—Cantonments and Municipalities.—Chapter X.—Miscellaneous.—Clauses 97—100.*)

Application of Act to military cantonments. 97. In all other respects the provisions [Act, s. 81.] of this Act shall have effect within such limits and distance as aforesaid.
[Cf. Act XII, 1896, s. 63.]

Assignment of function and powers to Municipality. 98. Notwithstanding anything in this [Act, s. 84] Act or in any other *Bengal* Act, the Local Government may, by order, with the sanction of the Government of India, assign to the Corporation of Calcutta, or to the Commissioners of any other Municipality, such functions and powers as it thinks fit in respect to the granting, withholding and cancellation of licenses for the sale of exciseable articles (being functions and powers which, but for such assignment, might lawfully be exercised by any officer of the Government), to be exercised by such Corporation or Commissioners, within the area subject to their administration, under such conditions and subject to such regulations as the Local Government may think fit to impose:

Provided that no functions or powers shall be assigned as aforesaid without the consent of the said Corporation or Commissioners, as the case may be:

Provided also that no conditions or regulations shall be imposed as aforesaid after an assignment has been so made, except with the consent of the said Corporation or Commissioners, as the case may be.

CHAPTER X.

MISCELLANEOUS.

Appeals from orders. 99. (1) An appeal shall lie to the [Act s. 88.] Commissioner against every order of a Collector under this Act, if presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days from the date of the order appealed against.
[Cf. Act XII, 1896, s. 64 (1).]

(2) An appeal shall lie to the Board against every order of a Commissioner under this Act, if presented to the Board within sixty days from the date of the order appealed against.

(3) The Board may, in its discretion, deal itself with any appeal referred to in sub-section (1) which is presented to it, instead of returning the same for presentation to the Commissioner under that sub-section.

(4) Subject to the foregoing provisions of [Act XII, 1896, s. 64 (4).] this section, the rules for the time being in force relating to appeals in the Land-revenue Department shall apply to appeals from orders under this Act.

Control by? Commissioner and Board. 100. (1) The Collector shall, in all proceedings under this Act, be subject to the control of the Commissioner and the Board; and the Commissioner shall, in all proceedings under this Act, be subject to the control of the Board.
[Cf. Act XII, 1896, s. 64.]